

# Board of Contract Appeals

*General Services Administration  
Washington, D.C. 20405*

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February 16, 2001

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GSBCA 15436-RELO

In the Matter of DARRELL M. THRASHER

Darrell M. Thrasher, APO Area Europe, Claimant.

Frank E. Wong, Chief, Travel Pay Branch, Defense Finance and Accounting Service, Seaside Location, Seaside, CA, appearing for Department of the Army.

**GOODMAN**, Board Judge.

Claimant, Darrell M. Thrasher, is a civilian employee of the Department of the Army. He has asked this Board to review the agency's decision that he owes the Army \$707.37 arising from his permanent change of station (PCS) move.

## Factual Background

In 1998 claimant received orders to transfer from Panama to Miami, Florida. He shipped his privately owned vehicle to Cape Canaveral, Florida, in anticipation of his move and received a travel advance. He then received an offer to be a telecommunications specialist at Fort Huachuca, Arizona, which he accepted. As he had already shipped his vehicle to Florida, he was advised to fly to the nearest city to Cape Canaveral and drive his vehicle to Arizona. Per diem, mileage, and air travel was authorized.

Claimant flew to Fort Lauderdale, Florida, stayed the night, took transport to Cape Canaveral, picked up his vehicle, and drove to Sierra Vista, Arizona. He submitted his claim for travel expenses and was reimbursed by the agency. The agency has notified claimant that he owes \$707.37 as a result of his move and the calculations resulting from his travel advance and reimbursed claims. Claimant believes the Government would not be seeking these funds if he had been reimbursed for lodging, applicable miscellaneous and incidental expenses, and mileage costs for driving his vehicle from Florida to Arizona which claimant believes are still owed to him.

In response to the Board's inquiry, the agency has demonstrated that claimant was reimbursed for the costs he alleges are still owed to him. The agency states that the reason claimant owes the agency \$707.37 is the result of the calculation of the relocation income tax

(RIT) allowance, and not the result of any claims for costs, as all claimed costs have been reimbursed.

### Discussion

The statutory and regulatory framework applicable to the computation and payment of allowances to relocated employees to offset increased taxes incurred as a result of the reimbursement of certain moving expenses is described in detail in Robert J. Dusek, GSBCA 14325-RELO, 98-1 BCA ¶ 29,440 (1997). In essence, when an employee is transferred, in the interest of the Government, from one permanent duty station to another, the agency reimburses the employee for many of the expenses incurred incident to the transfer. The amounts reimbursed are reported to the Internal Revenue Service (IRS) as income to the employee and must be included in the gross income reported by the employee when filing a tax return. To the extent reimbursed expenses are not deductible, the employee incurs an increased tax liability. See id. at 146,172-73. By law, agencies are to reimburse transferred employees for "substantially all" taxes incurred as a result of reimbursed moving expenses. 5 U.S.C. § 5724b (Supp. III 1997). This statutory provision is implemented in the Federal Travel Regulation (FTR), 41 CFR pt. 302-11 (1997).

The first step of the procedure for reimbursing employees for the tax impact of moving expenses is the calculation and payment of a withholding tax allowance (WTA), and the second step is calculation of the RIT allowance. The WTA offsets taxes withheld from reimbursed amounts as well as taxes withheld from the WTA itself. The formula for calculating the WTA is based upon a twenty-eight percent withholding rate. The WTA is paid in the year the expenses are reimbursed (year 1); the RIT allowance, which is intended to reimburse the employee for any added taxes not covered by the WTA, is determined the following year (year 2) based upon the combined marginal tax rates for years 1 and 2, the amount of taxable reimbursements made for moving expenses, and the amount of WTA paid in year 1. Dusek, 98-1 BCA at 146,172.

It is possible, based upon the amount of an employee's travel advance, the amount the employee is reimbursed, and the calculation of the RIT allowance, that there remains a sum due the agency, even after claimant has been reimbursed all claimed costs. This is what has occurred in this instance. The Board cannot find that the RIT allowance calculation should be altered in this case. We note, however, that the agency has the authority and discretion to waive collection of the overpayment in this case. 5 U.S.C. § 5584(a)(2)(A). As we recognized in Dusek, the agency is not required to collect the amount owed by the claimant if it believes that collection would not be equitable and in the best interest of the United States. 98-1 BCA at 146,173.

### Decision

The claim is denied.

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ALLAN H. GOODMAN

Board Judge