

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

June 20, 2001

GSBCA 15559-RELO, 15565-RELO, 15566-RELO

In the Matter of RAYMOND W. MARTIN

Raymond W. Martin, Kansas City, MO, Claimant.

Thomas L. Brockman, Jr., Director, United States Army Corps of Engineers Finance Center, Millington, TN, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

The Army Corps of Engineers transferred Raymond W. Martin from Rock Island, Illinois, to Chicago in January 2000. In three separate claims, Mr. Martin maintains that the Army reimbursed him in insufficient amounts for costs he incurred in making this move. We find that in each case, the Army's action was appropriate under applicable regulations.

GSBCA 15559-RELO

The first claim, which we docketed as GSBCA 15559-RELO, involves shipment of Mr. Martin's household goods. The Army authorized shipment under a Government bill of lading (GBL). Mr. Martin moved his goods himself. The Army and Mr. Martin agree that the agency should have reimbursed the employee for costs of transporting the goods. They also agree that the limitation on reimbursement should be the amount the Government would have spent, had the items been shipped under a GBL. The parties disagree, however, as to the nature of the expenses that should be subject to this limitation. The Army reimbursed Mr. Martin for the expenses he actually incurred. The employee believes that it should have paid him at the "commuted rate" for moving his belongings.¹

¹Mr. Martin also asked us in GSBCA 15559-RELO to direct the Army to consider as "transfer leave," rather than leave without pay, the time during which he was absent from work for the purpose of loading the goods. This claim should have been directed to the Office of Personnel Management, rather than this Board. We have transferred it to that agency. Raymond W. Martin, GSBCA 15559-RELO (Mar. 30, 2001).

A quick look at relevant regulations shows that the Army's position is correct. Under the Department of Defense's Joint Travel Regulations (JTR), when the Government arranges for the shipment of an employee's household goods, as by using a GBL, and the employee chooses to move his goods himself, reimbursement is limited to expenses actually incurred by the employee, not to exceed the cost of the Government-arranged move. JTR C8001-D.3.c (June 1, 1999).²

The "commuted rate" is a rate at which the Government reimburses an employee for transporting his household goods when the agency determines that having the employee make his own arrangements for the transportation would be more economical than having the Government make the arrangements. Payments under the commuted rate method are in accordance with prescribed schedules and depend on the weight of the goods and the distance those items are shipped. Chris W. Giggey, GSBCA 13979-RELO, 97-2 BCA ¶ 29,312; Thomas J. Prendergast, GSBCA 13961-RELO, 97-2 BCA ¶ 29,052.

Mr. Martin has sent to us copies of a large number of our decisions which discuss agency errors in not paying employees under the commuted rate method for the cost of moving their belongings. These cases are not applicable to his situation, however. The cases stand for the proposition that when an agency leads an employee to believe that he will be reimbursed under the commuted rate method, or gives the employee the choice of being paid under that method, the agency may not, after the move has occurred, limit reimbursement to GBL costs. David L. Dillingham, GSBCA 15340-RELO, 00-2 BCA ¶ 31,061; Steven C. Mantooth, GSBCA 14824-RELO, 99-2 BCA ¶ 30,424; T. Scott Frick, GSBCA 14228-RELO, 98-1 BCA ¶ 29,428 (1997); Jeffery P. Herman, GSBCA 13832-RELO, 97-1 BCA ¶ 28,704 (1996); Michael D. Graves, GSBCA 13833-RELO, 97-1 BCA ¶ 28,703 (1996); James M. Bowman, GSBCA 13830-RELO, 97-1 BCA ¶ 28,699 (1996). Here, the Army expressly authorized shipment under a GBL. It did not lead Mr. Martin to believe that he would be reimbursed under the commuted rate method, and it did not give him the choice of being paid under that method. The rules for limitation of reimbursement when the Government agrees to be responsible for the shipment must consequently be applied. Paul F. Hofmann, GSBCA 14348-RELO, 98-1 BCA ¶ 29,520 (1997).

GSBCA 15565-RELO

The second claim, which we docketed as GSBCA 15565-RELO, involves payment for Mr. Martin's traveling in his own vehicle from Rock Island to Chicago. The Army paid for the travel on the basis that the distance between the two cities is 177 miles. Mr. Martin maintains the distance from his home in Rock Island to the location of his temporary quarters in Chicago is 183 miles. He asks to be paid, at the appropriate mileage rate, for traveling the additional six miles.

Again, the JTR has a ready answer: The Defense Table of Official Distances, or DTOD, must be used for computing distances to be used when calculating reimbursement for surface travel by Defense Department employees. The actual distance between two specified points, rather than the city-to-city distance, may not be used. JTR C1065 (Apr. 1,

²This rule is now specified at JTR C8210-B (Jan. 1, 2001).

1999). Nadene R. Abramo, GSBCA 15060-TRAV, 99-2 BCA ¶ 30,532. The distance between Rock Island and Chicago, according to the DTOD, is 177 miles. The Army correctly used this figure in calculating Mr. Martin's reimbursement for this travel.

GSBCA 15566-RELO

The Army reimbursed Mr. Martin for temporary quarters subsistence expenses (TQSE) at a rate which we determined, in reviewing an earlier claim on this same matter, is the one prescribed by applicable regulation. Raymond W. Martin, GSBCA 15433-RELO, 01-1 BCA ¶ 31,292. In the third of the three claims addressed in this decision, GSBCA 15566-RELO, the employee contends that the regulation in question is "discriminatory based on marital status & Number of Dependents" because "Lodging is not 75% more expensive for an employee with a spouse tha[n] it is for the employee alone." He also asserts that he is entitled to be reimbursed at a higher rate because the higher rate was agreed to by the agency human resources office which was responsible for the logistics of the move.

Congress has entrusted to the Administrator of General Services the responsibility for issuing regulations which define the amounts of TQSE to be paid to transferred employees who occupy temporary quarters. 5 U.S.C. § 5724a(c) (Supp. V. 1999) (referencing id. § 5738). Whether the regulations should provide greater reimbursement for temporary lodging of a transferred single employee, relative to the reimbursement they provide for temporary lodging of a transferred married employee and/or a transferred employee with additional dependents, is a matter of policy to be determined by the Administrator. We interpret and apply travel and relocation regulations, but have no authority to rewrite them. The regulations clearly establish the reimbursement rates we held in the earlier case to apply to Mr. Martin's claim for additional TQSE. That ends our analysis.

Whether Mr. Martin may receive payment in excess of that provided by regulation because an agency official agreed to make that higher payment was raised and addressed in our earlier decision. An employee may not receive a second hearing on an identical issue merely by filing a new case. This issue has already been decided in the agency's favor.

STEPHEN M. DANIELS
Board Judge