

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

July 10, 2001

GSBCA 15585-RELO

In the Matter of ALAN D. HENDRY

Alan D. Hendry, Gainesville, VA, Claimant.

Deborah Osipchak, Manager, Travel and Payroll Services Branch, Federal Aviation Administration, Department of Transportation, Washington, DC, appearing for Department of Transportation.

DeGRAFF, Board Judge.

The Federal Aviation Administration Travel Policy establishes a deadline by which transferred employees must begin travel and transportation in order to be reimbursed for relocation expenses. Because claimant met the deadline, the agency should reimburse the claimant's allowable residence transaction expenses.

Background

On September 29, 1998, the Federal Aviation Administration (FAA) issued travel orders transferring Alan D. Hendry from his permanent duty station in Richmond, Virginia, to permanent duty in FAA's Potomac Office, which was temporarily located in Landover, Maryland. At that time, the FAA followed the Federal Travel Regulation (FTR) (41 CFR Chapters 300-304) and Department of Transportation (DoT) internal orders regarding relocation benefits for employees who, like Mr. Hendry, were not union members. The FTR contained two deadlines that were relevant to Mr. Hendry's relocation to the Potomac Office. First, the maximum time for an employee to begin allowable travel and transportation could not exceed two years from the date the employee reported to the new duty station. 41 CFR 302-1.4(l), -1.6 (1998). Second, residence transaction expenses would be reimbursed if an employee purchased a house at the new duty station within two years from the date the employee reported for duty there. 41 CFR 302-6.1(e). The agency had the discretion to extend the residence transaction expenses deadline for one year, provided certain conditions were met. 41 CFR 302-6.1(e)(2). If the agency extended the residence transaction expenses deadline, the two-year deadline for beginning allowable travel and transportation would also be extended for one year. 41 CFR 302-1.6(c). DoT's internal orders contained provisions substantially the same as the FTR's provisions.

On October 15, 1998, the Federal Aviation Administration Travel Policy (FAATP) became effective for employees who were not union members. The FAA issued the FAATP pursuant to a statute that exempted the FAA from large parts of title 5, United States Code, including the provisions of that title concerning reimbursement of relocation expenses, and provided the FAA with the authority to develop and implement its own personnel management system. Pub. L. No. 104-50, § 347, 109 Stat. 436, 460 (1995); FAATP 300-1.2. The FAATP contained only one deadline that was relevant to Mr. Hendry's permanent change of station to the Potomac Office. The FAATP stated that in order to be reimbursed for relocation expenses in connection with a transfer, an employee had to begin travel and transportation not later than eighteen months after the date the employee reported for duty at the new duty station. FAATP 302-1.4, -3.4, -3.42. The FAA had the discretion to extend the deadline to begin travel and transportation for six months if (1) the employee was selling a house at the old duty station or purchasing a house at the new duty station, (2) extenuating circumstances prevented the employee from completing the sale or the purchase, and (3) the employee requested the extension within the eighteen-month period. FAATP 302-3.43.

Soon after receiving his travel orders, Mr. Hendry began his travel to his new duty station at its temporary location in Landover, Maryland. He reported for duty there on October 25, 1998. In April 1999, the FAA moved the Potomac Office to another temporary location, this one in Herndon, Virginia, approximately forty-eight miles from its previous temporary location. The FAA considered various sites for the permanent location of the Potomac Office, some of them as much as eighty-five miles apart. In August 1999, the FAA selected a second location in Virginia, approximately twenty-six miles from Herndon and seventy miles from the office's temporary location in Landover, as the permanent location for the Potomac Office.

Because Mr. Hendry knew that the FAA had issued the FAATP, he asked the FAA in February 2000 when he had to complete his move. The FAA said that the FAATP did not apply to Mr. Hendry because it had not been in effect when his travel orders were signed, and explained that he had two years with a possible one-year extension to complete his move. In September 2000, Mr. Hendry submitted a written request to the FAA for a one-year extension because he had not yet purchased a house. The FAA approved the extension in October 2000.

Mr. Hendry purchased a house near his new duty station in January 2001, and submitted a claim to the FAA for reimbursement of the expenses he incurred in connection with the purchase transaction. In February 2001, the FAA denied his claim. The FAA explained that the FAATP required him to complete his purchase within a maximum of twenty-four months from the date he reported for duty at the Potomac Office. Further according to the FAA, because Mr. Hendry reported for duty in October 1998, according to the FAATP he had to complete his purchase transaction by October 2000 in order to be reimbursed. Mr. Hendry asked us to review his claim.

Discussion

The FAATP governs Mr. Hendry's claim for reimbursement. Both the FTR and the FAATP provide that relocation allowances are governed by the regulations in effect on the date the employee reports for duty at the new duty station. 41 CFR 302-1.3(d), -1.4(l);

FAATP 302-1.4, -2.7. The FAA provided Mr. Hendry with erroneous advice in February 2000. His relocation benefits depended upon the date that he reported for duty at the Potomac Office, not upon the date of his travel orders. When Mr. Hendry reported for duty at the Potomac Office, the FAATP was in effect for non-union FAA employees, so the FAATP applies to Mr. Hendry.

Unlike the FTR, the FAATP does not contain a deadline by which an employee is required to purchase a house at a new duty station in order to be reimbursed for purchase transaction expenses. The FAATP's only deadline is that in order to be reimbursed for relocation expenses in connection with a transfer, the employee must begin his travel and transportation within eighteen months after reporting to the new duty station. That deadline can be extended if an employee encounters problems purchasing a house, but the deadline is one for beginning travel and transportation and is not a deadline for completing a purchase transaction. Mr. Hendry meets the FAATP's deadline for reimbursement, because he began his travel from his old duty station well within the eighteen-month deadline. The FAA could, of course, have written the FAATP so that it established one deadline for beginning travel and transportation and another deadline for completing residence transactions, similar to the two deadlines contained in the FTR. But, as the FAATP read when Mr. Hendry reported for duty at the Potomac Office, the only deadline that has any bearing upon his eligibility for reimbursement of relocation expenses is the deadline for beginning travel and transportation.

Although the FAATP does not contain a deadline for completing residence transactions, a transferred FAA employee who wants to be reimbursed for allowable relocation expenses cannot take an unlimited amount of time to sell a house at an old duty station or to purchase a house at a new duty station. The purpose of the FAATP, like the FTR, is to reimburse an employee for relocation expenses incurred in connection with a transfer from one permanent duty station to another, not to reimburse an employee for expenses incurred in connection with a personal decision regarding the sale or purchase of a residence. Mr. Hendry explains that the timing of his purchase was due to the length of time the FAA took to select a permanent location for his new duty station. The FAA has not suggested that Mr. Hendry incurred his purchase transaction expenses in connection with a personal decision to defer purchasing a new residence, so it should reimburse him for those expenses.

The claim is granted.

MARTHA H. DeGRAFF
Board Judge