

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

August 7, 2002

GSBCA 15782-RELO

In the Matter of RICHARD P. CRANE

Richard P. Crane, Littleton, CO, Claimant.

C. Bruce Sheaffer, Comptroller, National Park Service, Department of the Interior,
Washington, DC, appearing for Department of the Interior.

HYATT, Board Judge.

Claimant, Richard P. Crane, an employee of the National Park Service (NPS), accepted a permanent change of station (PCS) from Colorado Springs to Denver, Colorado. The agency authorized reimbursement of relocation expenses, including thirty days of temporary quarters subsistence expenses (TQSE) and a house hunting trip. Mr. Crane took a brief house hunting trip, driving up to Denver from Colorado Springs and staying two nights, for a total cost to NPS of \$262.70.

Mr. Crane moved to Denver on April 8, 2001, and immediately commenced occupying temporary quarters, for which reimbursement of expenses had been approved through May 7, 2001. He was unable to move to permanent quarters after thirty days and requested an additional thirty days of TQSE. His supervisor recommended that the extension be approved, explaining that the person who counseled Mr. Crane on his move was new to the job and had failed to inform him of an internal NPS policy directive under which a transferring employee is limited to thirty days of TQSE if a house hunting trip has been authorized. Mr. Crane's supervisor noted that the house hunting trip in this case had been brief and relatively inexpensive to the agency, that Mr. Crane had made a good faith effort

to find suitable housing, and that the approximately fifty days requested was not an unreasonable amount of time to locate housing, arrange for a loan, close, and move. The request was approved by the Denver Service Center.

NPS paid for the first thirty days of TQSE, but the Accounting Operations Center in Herndon, Virginia, which reviews relocation expenses vouchers, disallowed the second thirty-day period of TQSE, relying on an NPS internal policy that provides that when an employee is authorized a house hunting trip TQSE may not exceed thirty days. Mr. Crane has requested the Board's review of this decision.

Discussion

Under the Federal Travel Regulation (FTR), an agency may authorize TQSE in thirty-day increments, in general not to exceed sixty days. 41 CFR 302-5.104 (2000). The FTR charges each individual agency with developing policies and procedures governing when the agency will authorize TQSE for employees, who will determine if TQSE is appropriate in a particular situation, and how much TQSE should be authorized in given circumstances. Id. 302-5.301.

In this case, the NPS has developed a written internal policy, set forth in a permanent change of station information packet that is supposed to be provided to transferred employees, that provides that "[i]f an employee is authorized an advance house hunting trip, temporary subsistence, if requested and approved, may not exceed thirty (30) days." The policy further states that this "is an established Park Service policy and takes precedence over the Federal Travel Regulations that do allow for extensions on a case-by-case basis."

The Board has recently addressed the application of an internal agency policy or rule that supplements the regulations promulgated in the FTR. We have recognized that the FTR is a "legislative rule," and that to the extent an internal agency policy is in conflict with the FTR, the internal guideline must give way. Edward Queair, GSBCA 15714-RELO, 02-1 BCA ¶ 31,757 (citing Vera A. Wood, GSBCA 15637-TRAV, 02-1 BCA ¶ 31,693 (2001)).

In this case, there is no conflict between the FTR and the internal policy. The FTR permits agencies to formulate their own procedures for determining when and for how long TQSE should be authorized. The FTR also recognizes that agencies may authorize advance house hunting trips as a means of avoiding or reducing the need for TQSE. 41 CFR 302-5.303. The internal rule adopted and followed by NPS is consistent with the provisions of the FTR and thus should be given effect. Since Mr. Crane was authorized a house hunting trip, which he took, the amendment of claimant's orders to permit additional TQSE after the initial thirty day period was unauthorized under the terms of NPS's policy, and the

Accounting Operations Center properly disallowed the additional payment. It is unfortunate that Mr. Crane apparently was not effectively advised that his house hunting trip would operate to limit his entitlement to TQSE to thirty days and that thereafter his travel orders were erroneously amended by local travel authorizing officials to reflect an extension of TQSE. Although Mr. Crane no doubt relied on these orders, the agency is not bound by the erroneous advice and actions of its officials to expend monies that are not authorized under applicable rules and regulations. E.g., James F. Black, GSBCA 14548-RELO, 98-2 BCA ¶ 29,876; William Archilla, GSBCA 13878-RELO, 97-1 BCA ¶ 28,799.

CATHERINE B. HYATT
Board Judge