

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

August 15, 2002

GSBCA 15882-RELO

In the Matter of STEPHEN T. CLASSICK

Stephen T. Classick, Langley Air Force Base, VA, Claimant.

Capt. Alisa C. Ricks, Commander, Financial Services Flight, Department of the Air Force, Langley Air Force Base, VA, appearing for Department of the Air Force.

DeGRAFF, Board Judge.

Stephen T. Classick asks that we review his agency's decision to deny his claim for reimbursement of the real estate transaction expenses he incurred when he sold his house at his old duty station in the United States in connection with his transfer to a new duty station outside the United States. Because Mr. Classick sold his house before the agency officially notified him that he would not return to his old duty station, the agency correctly decided to deny his claim.

Background

Mr. Classick is a civilian employee of the Department of Defense (DoD). In early 2000, when Mr. Classick's permanent duty station was in Idaho, DoD notified him that he would be transferred to England in July 2000, and that he had no return rights to Idaho. Mr. Classick asked DoD whether he could sell his house in Idaho before he transferred to England, and DoD said that he could. In connection with the transfer, DoD issued a travel authorization on April 5, 2000. Although the authorization provided that DoD would pay for or reimburse Mr. Classick for a number of his relocation expenses, it did not provide that DoD would reimburse him for real estate transaction expenses. Mr. Classick sold his house in Idaho in June 2000, and transferred to England in July 2000. In 2002, DoD transferred Mr. Classick to Virginia, and Mr. Classick asked DoD to reimburse him for the real estate transaction expenses he incurred in connection with the sale of his house in Idaho. DoD denied Mr. Classick's claim, and he asked us to review DoD's decision.

Discussion

The federal statute that governs Mr. Classick's claim provides that when an agency transfers an employee from a duty station within the United States to a duty station outside

the United States and then back to the United States, the agency can reimburse the employee for the expenses of selling a house at the first duty station in the United States only if the sale occurs after the employee receives official notification that he will not return to that duty station. 5 U.S.C. § 5724a(d)(2), (3) (2000). The Joint Travel Regulations (JTR) are consistent with the statute. JTR C14000-C, -D (April 1, 2000).¹ We have discussed these statutory and regulatory requirements many times and applied them to employees whose circumstances were similar to those of Mr. Classick. Edward J. Nanartowich, GSBCA 15237-RELO, 01-1 BCA ¶ 31,290 (citing cases).

The law is clear that DoD is not authorized to reimburse Mr. Classick for the expenses he incurred when he sold his house in Idaho, because he sold the house before he received official notification that he would not return to Idaho. According to JTR C14000-C.4 and -D.2, such official notification usually takes the form of permanent change of station orders. When Mr. Classick sold his house in Idaho, DoD had not issued any permanent change of station orders telling him that he would not return there. Although DoD told Mr. Classick that he did not have return rights to Idaho, the lack of return rights does not constitute official notification that the employee will not return to his former duty station, because there is still a chance that the employee will be able to return there at the conclusion of the overseas tour of duty. Mark H. Swenson, GSBCA 15504-RELO, 01-1 BCA ¶ 31,410 (citing cases). When Mr. Classick sold his house, DoD did not tell him where he might be posted after England, much less provide him with official notification that he would not return to Idaho. Thus, according to the statute and its implementing regulations, DoD has no authority to reimburse Mr. Classick for his real estate transaction expenses.

It is certainly unfortunate that Mr. Classick received inaccurate or confusing advice from DoD, but such advice does not authorize DoD to reimburse Mr. Classick contrary to statute and regulation. Pamela A. Mackenzie, GSBCA 15328-RELO, 01-1 BCA ¶ 31,174 (2000).

The claim is denied.

MARTHA H. DeGRAFF
Board Judge

¹ This JTR revision was applicable on the effective date of Mr. Classick's transfer to England. See 41 CFR 302-1.3(d), -1.4(l) (2000).