

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

May 22, 2003

GSBCA 16105-RELO

In the Matter of KARL H. UEBERSOHN

Karl H. Uebersohn, Chesapeake, VA, Claimant.

Judy Hughes, Travel Pay Services, Systems and Procedures, Defense Finance and Accounting Service, Columbus, OH, appearing for Department of Defense.

DeGRAFF, Board Judge.

Karl H. Uebersohn asks that we review his agency's decision to deny his claim for reimbursement of real estate transaction expenses he incurred when he sold his house at his old duty station in the United States soon after he transferred to a duty station outside the United States. Because Mr. Uebersohn 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. Uebersohn is a civilian employee of the Department of Defense (DoD). In early 2000, when Mr. Uebersohn's duty station was in New York, DoD notified him that he would be transferred to Germany. According to Mr. Uebersohn, DoD also informed him that he had no return rights back to New York. Mr. Uebersohn sold his house in New York in October 2000. In late 2001, DoD notified Mr. Uebersohn that he would be transferred to Virginia. According to an amended travel authorization that DoD issued in connection with his transfer to Virginia, Mr. Uebersohn was authorized to incur reimbursable real estate transaction expenses. Mr. Uebersohn asked DoD to reimburse him for the expenses he incurred when he sold his house in New York. DoD denied Mr. Uebersohn's claim, and he asked us to review DoD's decision.

Discussion

The federal statute that governs Mr. Uebersohn'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. We have discussed these statutory and regulatory requirements many times and applied them to employees whose circumstances were similar to those of Mr. Uebersohn. 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. Uebersohn for the expenses he incurred when he sold his house in New York, because he sold the house before he received official notification that he would not return to New York. According to the JTR, such official notification usually takes the form of permanent change of station orders. JTR C14000-C.4, -D.2. When Mr. Uebersohn sold his house in New York, DoD had not issued any permanent change of station orders telling him that he would not return there. Although DoD told Mr. Uebersohn that he did not have return rights to New York, the lack of return rights does not constitute official notification that the employee will not return to his former duty station, because there is 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. Uebersohn sold his house, DoD did not tell him where he might be posted after Germany, much less provide him with official notification that he would not return to New York. Thus, according to the statute and the regulations, DoD has no authority to reimburse Mr. Uebersohn for his real estate transaction expenses.

The claim is denied.

MARTHA H. DeGRAFF
Board Judge