

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

April 1, 2004

GSBCA 16351-RELO

In the Matter of JACQUELINE S. FERGUSON

Jacqueline S. Ferguson, Columbia, SC, Claimant.

Terry Burton, Chief, Travel Section, Financial Services Center, Department of Veterans Affairs, Austin, TX, appearing for Department of Veterans Affairs.

DeGRAFF, Board Judge.

In April 2003, Jacqueline S. Ferguson, a newly hired federal employee, moved from California to Georgia to accept a position with the Department of Veterans Affairs (DVA). In Georgia, Ms. Ferguson contracted to purchase a house and planned to close the purchase transaction on October 1, 2003. Before the closing occurred, DVA told Ms. Ferguson she was being transferred to South Carolina, and she canceled the purchase of the house. When Ms. Ferguson canceled the purchase, her mortgage company had incurred expenses of \$308 on her behalf and Ms. Ferguson paid this amount to the mortgage company. Ms. Ferguson submitted a claim to DVA for the \$308 as a reimbursable expense incurred in connection with her transfer to South Carolina. DVA decided not to reimburse Ms. Ferguson for the claimed expense. DVA did, however, reimburse her for the expenses of settling an unexpired lease in Georgia and it paid her \$500 for miscellaneous expenses. Ms. Ferguson asks us to review DVA's decision.

When an agency transfers an employee from one permanent duty station to another, various statutes and regulations authorize the agency to reimburse the employee for relocation expenses. The statutes and regulations provide an agency shall pay an employee who transfers in the interest of the Government for expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station and the purchase of a residence at the new official station. 5 U.S.C. § 5724a(d)(1) (2000); 41 CFR pt. 302-11 (2003). In addition, when an agency transfers an employee in the interest of the Government, the employee is entitled to be paid an amount for miscellaneous expenses. 5 U.S.C. § 5724a(f); 41 CFR pt. 302-16. Unlike transferred employees, new employees are not

entitled to either real estate transaction expenses or an amount for miscellaneous expenses. 41 CFR pt. 302-3, subpt. A.

Applying these rules to Ms. Ferguson's claim shows DVA cannot reimburse her claimed \$308 expense either as a real estate purchase transaction expense or as a miscellaneous expense incurred as the result of her move from California to Georgia, because as a new employee she was not entitled to be paid either real estate transaction expenses or an amount for miscellaneous expenses. Also, DVA cannot reimburse her claimed expense as a real estate sales transaction expense incurred as the result of her move from Georgia to South Carolina, because she never owned and therefore never sold the house in Georgia.

DVA might be able to pay Ms. Ferguson's claim, however, as a miscellaneous expense incurred in connection with her transfer from Georgia to South Carolina. Miscellaneous expenses are costs associated with, among other things, discontinuing a residence at an old duty station. 41 CFR 302-16.1(a). As DVA points out, Ms. Ferguson never occupied the house in Georgia and never commuted regularly to work from the house. However, in situations similar to the one we have here, the Comptroller General concluded agencies could reimburse employees when a transfer made in the interest of the Government prevented an employee from completing a purchase transaction and occupying a house. Travis Stevenson, B-182929 (Nov. 26, 1975); Mark S. Siegler, B-180377 (Aug. 8, 1974). We reached a similar conclusion in Christopher A. Haubert, GSBCA 13980-RELO, 97-1 BCA ¶ 28,864. Thus, even though the house in Georgia was never Ms. Ferguson's residence, she can be reimbursed for miscellaneous expenses connected with her cancellation of the contract to purchase the house, because she canceled the contract due to her transfer to South Carolina in the interest of the Government.

DVA paid Ms. Ferguson \$500 for the miscellaneous expenses she incurred as the result of her transfer to South Carolina, and this is the maximum amount she can receive unless DVA determines it is appropriate to pay a greater amount. If DVA makes such a determination, Ms. Ferguson will have to provide DVA with evidence of all the miscellaneous expenses she incurred as the result of her transfer, including the \$308 she paid to the mortgage company. If she can establish her expenses exceeded \$500, DVA can reimburse her expenses within the limits set out in the regulations. 41 CFR 302-16.103, -16.104, -16.200.

MARTHA H. DeGRAFF
Board Judge