

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

February 2, 2005

GSBCA 16546-RELO

In the Matter of JOHN E. BROWN

John E. Brown, Tuscaloosa, AL, Claimant.

Mary A. Thielen, Personnel Management Specialist, Military Technician Program Division, Department of the Army, Fort McCoy, WI, appearing for Department of the Army.

PARKER, Board Judge.

Background

John E. Brown resigned from his position at the Defense Information Systems Agency (DISA) in St. Louis, Missouri, on February 4, 2000. On June 9, 2000, he was hired as a new appointee by the Department of the Army for a position in Mannheim, Germany. The Army paid the moving-related expenses allowed by the Joint Travel Regulations (JTR) for newly-hired employees.

Mr. Brown was transferred from Mannheim to Birmingham, Alabama, on September 7, 2003. He then sold his house in St. Louis, incurring \$5134.42 in real estate transaction expenses. Mr. Brown asked the Army to reimburse him for these expenses, but the Army decided that Mr. Brown was not entitled to reimbursement. Mr. Brown has asked the Board to review the Army's decision.

Discussion

The Army correctly decided not to reimburse Mr. Brown. By statute, federal employees who are transferred from a post of duty outside the United States to an official station within the United States (other than the official station from which the employee was transferred when assigned to the foreign tour of duty) are entitled to be reimbursed the expenses of selling the residence "at the official station from which the employee was transferred when the employee was assigned to the post of duty located outside the United States." 5 U.S.C. § 5724(d)(2), (3) (2000). What this means for purposes of this case is that, in order to be reimbursed the costs of selling a residence in the United States after a tour of duty overseas, the residence must be located in the "official station" from which the

employee was "transferred" overseas. Employees whose first duty station is abroad are not eligible for reimbursement of real estate transaction expenses when they are transferred from that station to a domestic location because they were never transferred from an official station in the United States. The JTR makes this proposition explicit:

The following employees are not eligible for real estate allowances when transferred from a foreign area PDS [permanent duty station] to a PDS in [the continental United States] This is because they were not initially transferred from a PDS in [the continental United States] . . . to the foreign area PDS as a civilian employee.

. . . .

(c) an employee hired in [the continental United States] . . . for assignment to a first PDS and the PDS is in a foreign area.

JTR C14000-C.2 note (Sept. 1, 2003); George S. Page, GSBCA 15114-RELO, 00-1 BCA ¶ 30,707 (1999).

Because Mr. Brown had previously resigned from his position with DISA, he was properly considered to be a "new appointee" for purposes of receiving relocation allowances. JTR C5080-B(2)(b)(3). As a new employee whose first permanent duty station was in Mannheim, Germany, Mr. Brown was never "transferred" from St. Louis to Mannheim and is thus by statute and regulation not entitled to a real estate allowance in connection with the sale of his house in St. Louis.

Accordingly, the claim is denied.

ROBERT W. PARKER
Board Judge