

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

May 23, 2005

GSBCA 16594-RELO

In the Matter of SYLVIA H. SHANER

Sylvia H. Shaner, Rockville, MD, Claimant.

Marion Deutsch, PCS Claims Officer, Real Estate Division, Baltimore District, United States Army Corps of Engineers, Baltimore, MD, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

The Department of the Army transferred Sylvia H. Shaner to a new permanent duty station in October 2004. She and her husband bought a residence there, and the Army reimbursed her for most of the expenses the couple incurred in making this purchase. Ms. Shaner asks us to review the agency's determination to deny reimbursement of two specific expenses – a charge listed on the settlement sheet as “documentation fees” paid to the seller's realtor and a portion of the cost of title insurance.

As to both of these items, the agency's position is correct. Under both the Federal Travel Regulation, which applies generally to civilian employees of the Government, and the Joint Travel Regulations (JTR), which apply to civilian employees of the Department of Defense, “[b]roker fees or commissions paid in connection with the purchase of a home at the new official station” are not reimbursable. 41 CFR 302-11.202(a) (2003); *see also* JTR C14002-A.1. The “documentation fees” the Shaners paid to the seller's realtor fall into this category. Also under both regulations, premiums for title insurance are reimbursable only when a policy is purchased “for the protection of, and required by, the lender” or the premiums are “inseparable from the cost of other insurance which is a prerequisite [to financing].” Separately identifiable premiums are not reimbursable if they cover insurance

which is for the benefit of the purchaser. 41 CFR 302-11.202(f)(8), (9); JTR C14002-A.4.a(8), (9). Because the contested portion of the cost of title insurance is for a policy for the benefit of the Shaners and is separable from the cost of the policy which is for the protection of the lender, it is not reimbursable.

Ms. Shaner asks that we order the Army to reimburse her for the two expenses in question, on the ground that she is not familiar with real estate transactions, did not request or understand these charges, and trusted the well-known firms with which she dealt to treat her fairly. We have no license to allow reimbursement where the regulations clearly forbid it; we must honor those established rules. Ms. Shaner's predicament should serve as a warning to other transferred employees, however, to make sure they understand all proposed settlement charges before accepting them.

STEPHEN M. DANIELS
Board Judge