

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

May 3, 2005

GSBCA 16602-RELO

In the Matter of JEAN S. NICOLAS

Jean S. Nicolas, Annapolis Junction, MD, Claimant.

Shirley Lee Autry, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

GOODMAN, Board Judge.

Claimant, Jean S. Nicolas, is a civilian employee of the Department of the Army Corps of Engineers. He has asked this Board to review the agency's claim for an alleged debt he owes the agency arising out of his permanent change of station (PCS) transfer.

Factual Background

Claimant was issued PCS orders dated April 24, 2004, to transfer from Camp Zama, Japan, to Elkridge, Maryland. The travel orders authorized shipment of household goods (HHG) and stated, "Unaccompanied Baggage [UB] authorized NTE [not to exceed] 350 lbs per traveler 12 years and over and 175 lbs for each child under 12 years. (Cannot exceed 1,000 [lbs] per family)."

Claimant traveled with his wife and two children under the age of twelve and reported to his new duty station in July 2004. Their UB was shipped by air transportation. The shipping documents stated that the gross weight of the UB was 1300 pounds and the net weight was 1070 pounds. The shipping company billed the agency for shipping 1300 pounds, calculated by gross weight. The agency paid the shipping company and then determined that claimant had exceeded the maximum allowed for transporting UB by 300 pounds. The agency issued a notice of debt to claimant for \$414.41 for the excessive weight shipped. Claimant alleges that the agency erroneously calculated the excess UB based upon gross weight, rather than the net weight of 1070 pounds. He further claims that the net weight of his family's UB did not exceed the UB weight limitation.

Discussion

Under the Joint Travel Regulations (JTR), the Government's authority is to pay the actual costs of shipping HHG by the authorized method up to a maximum of 18,000 pounds, including unaccompanied baggage, if any. JTR C8000 (July 2004). Additionally, unaccompanied baggage weight is part of the total authorized HHG weight allowance. The unaccompanied baggage weight allowance is 350 pounds net weight for each adult and dependent twelve years of age and older, and 175 pounds net weight for each child under twelve years of age. However, the total amount of unaccompanied baggage transported by air transportation may not exceed 1000 pounds net weight. JTR C8020-B, -D.1.a. These regulatory limits are stated in claimant's travel orders.

Claimant is correct that the agency is required to use net weight to calculate excessive UB. According to the JTR, the allowances for shipments of both HHG and UB are based upon net weight. JTR C8100. In *Kellis L. Nobles*, GSBCA 16066-RELO, 04-1 BCA ¶ 32,436 (2003), we cited this requirement of the JTR and held that:

The statute and implementing regulations governing shipment of household goods authorize shipment of 18,000 pounds net weight of HHG when an employee relocates in the interest of the Government. . . . If the additional charge is indeed based on the gross, rather than on the net, weight of the unaccompanied baggage, then [claimant] . . . should not be required to pay this additional amount.

04-1 BCA at 160,496.

Claimant states and the shipping documents confirm that the net weight of his family's UB was 1070 pounds. He asserts that this amount is within the limit established by the JTR for himself, his spouse, and two dependents under twelve. Claimant fails to consider the 1000 pound net weight limitation for UB shipped by air. He is therefore liable for seventy pounds of excessive UB.

Decision

The claim is granted in part. Claimant is liable for seventy pounds of excessive UB, not 300 pounds as sought by the agency. The agency should recalculate claimant's liability and bill him accordingly.

ALLAN H. GOODMAN
Board Judge