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

August 18, 2005

GSBCA 16647-RELO

In the Matter of JACK N. GOLDSTEIN

R. Scott Garland of Moore Myers & Garland, Jackson Hole, WY, appearing for Claimant.

Paul Henne, Acting Assistant Director, Business Management and Operations, Fish and Wildlife Service, Department of the Interior, Washington, DC, appearing for Department of the Interior.

DeGRAFF, Board Judge.

When a federal government employee signs a service agreement in connection with a transfer and does not remain in government service for the length of time specified in the agreement, the money spent by the Government in connection with the transfer is recoverable as a debt due the Government.

Background

In 2001, Jack N. Goldstein was employed by the Department of the Interior in Anchorage, Alaska. In May, Interior offered Mr. Goldstein a transfer to King Salmon, Alaska, and he accepted the offer. In connection with the transfer, Mr. Goldstein signed a service agreement which said he would remain in government service for twelve months following his transfer. The agreement said if he did not remain in government service for twelve months, he would repay Interior the total of the costs it incurred in connection with the transfer, unless he separated from government service for reasons beyond his control and acceptable to Interior.[1] Mr. Goldstein reported for duty in King Salmon on July 29, 2001.

Four weeks or so after he arrived in King Salmon, Interior sent Mr. Goldstein copies of its estimate of his moving costs, which amounted to more than $30,000. In his submission to us, Mr. Goldstein says by the time he received this estimate, his relationship with his supervisor had become strained and he had decided he wanted to quit his job. Concerned about the estimate of his moving costs, Mr. Goldstein asked Interior what costs it actually incurred in connection with his transfer, and learned these costs exceeded $12,000. In fact, they amounted to $12,925.01.

On September 4, 2001, Mr. Goldstein informed his project leader that he was thinking about leaving Interior to work for a non-profit conservation organization. He said the position in King Salmon was exactly as it had been described to him and was exactly the type of job he had wanted. He said he liked living in the area. He said he wanted to leave because he had changed his mind about his career path. Mr. Goldstein's project leader offered to allow him to do other types of work for Interior, such as working with local groups on conservation issues. It seemed to his project leader, however, that Mr. Goldstein had made a decision to leave. His project leader told Mr. Goldstein he would be liable for the costs of moving him to King Salmon and suggested he stay there for one year in order to avoid this liability. Although Mr. Goldstein did not appear to change his mind, his project leader asked him to think about his decision.

On September 10, 2001, Mr. Goldstein had a lengthy discussion with his acting project leader about his decision to leave Interior. Before the acting project leader would accept Mr. Goldstein's resignation, he asked if there were any steps Interior could take to convince Mr. Goldstein to stay, and he suggested several possible options. Mr. Goldstein said there was no hardship which was causing him to leave King Salmon. He described his work there as a "dream job" and said he liked living in King Salmon. Mr. Goldstein told his acting project leader his decision was based upon his lack of interest in continuing to work for the Government, and said he felt he would be an unmotivated employee if he were to stay. The acting project leader reminded Mr. Goldstein several times during their three-hour discussion that he would be expected to reimburse Interior for his moving costs if he decided to leave. Mr. Goldstein said he was ready to leave. The information available to us does not

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[1] Mr. Goldstein says before he transferred, an Interior employee told him his move would cost Interior approximately $6000. Interior denies this statement was made. We do not have to resolve this disagreement in order to decide this claim.

show Mr. Goldstein mentioned any problems with his supervisor during his conversations with his project leader and his acting project leader.

Mr. Goldstein's resignation from federal service was effective September 21, 2001. Subsequently, Interior decided to ask Mr. Goldstein to repay the $12,925.01 it spent in connection with his transfer to King Salmon.

Mr. Goldstein asks us to review Interior's decision. He asserts Interior spent an unreasonable amount in connection with his transfer and, for this reason, says he should not have to repay the entire $12,925.01. Interior denies the amount it spent was unreasonable and provided an explanation of the costs it incurred.

Discussion

When a government employee transfers to a post of duty outside the continental United States, the Government will pay some of the expenses of travel and transportation to the post. 5 U.S.C. § 5724(d) (2000). The Government will pay an employee's expenses, however, only if the employee signs an agreement to remain in government service for a minimum of twelve months following the effective date of the transfer, unless the employee is separated from service for reasons beyond his control that are acceptable to the agency. If the employee violates the agreement, the money spent by the agency is recoverable as a debt due the Government. 5 U.S.C. §§ 5722, 5724(i); 41 CFR 302-1.5 (2001).

Mr. Goldstein signed a service agreement and did not remain in government service for a minimum of twelve months following his transfer to King Salmon. Although Mr. Goldstein mentioned in his submission to us that he experienced a problem with his supervisor, he does not argue his separation from federal service was for reasons beyond his control. Even if he had made such an argument, the preponderance of evidence would compel us to reject it. Therefore, according to the plain terms of the statute and the regulation, he owes the Government a debt for the $12,925.01 Interior spent in connection with his transfer.

Mr. Goldstein contends the costs Interior incurred in connection with his transfer were too high. Neither the statute nor the regulation provides us with the authority to adjust the amount of Mr. Goldstein's debt, even if we agreed with his contentions regarding Interior's costs. *See Jose Cabrera*, GSBCA 15332-RELO, 01-1 BCA ¶ 31,212 (2000); *John P. Maille*, 71 Comp. Gen. 199 (1992); Comp. Gen. Dec. B-167,770 (Sept. 11, 1969). If any action is to be taken to decrease the amount of Mr. Goldstein's debt, it will have to be taken by Interior in accordance with its regulations regarding federal claims collection and waiver.

Decision

The claim is denied.

MARTHA H. DeGRAFF
Board Judge