

# **Board of Contract Appeals**

General Services Administration  
Washington, D.C. 20405

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December 4, 2006

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GSBCA 16972-RELO

In the Matter of EDWARD B. GIAGNI

Edward B. Giagni, Evergreen, CO, Claimant.

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

**DANIELS**, Board Judge (Chairman).

Edward B. Giagni was authorized to transfer in June 2004 from a United States Army Corps of Engineers facility in Germany to a Department of the Interior office in Colorado. Mr. Giagni's travel orders permitted the shipment of his household goods in two separate lots -- a small lot of unaccompanied baggage and a much larger lot of other belongings. The goods were moved as permitted. Both lots were placed in storage once they arrived in Colorado -- the unaccompanied baggage for forty-four days and the other belongings for seventy-one days.

Under the Federal Travel Regulation (FTR), the Government has considerable, but limited responsibility for the costs of shipping and storing a transferred employee's household goods. Of pivotal importance to this case, "The initial period of temporary storage at Government expense shall not exceed 90 days in connection with any authorized [household goods] shipment." 41 CFR 302-7.8 (2003). The import of this provision is that

if goods continued to be stored after the expiration of the ninety-day period, the expense of the additional storage will be borne by the employee.<sup>1</sup>

The Corps of Engineers, which was responsible under Mr. Giagni's travel orders for the costs of shipping and storing his goods, determined that the goods were in temporary storage for 105 days -- evidently a miscalculation of the total of forty-four plus seventy-one days. It claimed that Mr. Giagni was required to pay for the share of the cost of storage which was attributable to the goods remaining in storage for more than ninety days. Mr. Giagni objects that because each of the lots was stored for less than ninety days, the Corps is responsible for all storage costs and he owes nothing.

Mr. Giagni is correct. The FTR says that the Government is responsible for the costs of the first ninety days of storing "*any* authorized [household goods] shipment." Use of the term "*any*," combined with the use of the singular "*shipment*," indicates that the regulation should be interpreted to say that the Government's ninety-day liability extends to each and every authorized shipment of a transferred employee's household goods. Because the shipment of each of the two lots of Mr. Giagni's belongings was expressly authorized in his travel orders, and each of those lots was in storage for less than ninety days, the Corps must bear the full cost of the storage. The Corps has already taken \$727.81 from Mr. Giagni to cover what it considers his share of the cost. It must return that money to him.

As Mr. Giagni has observed, the Corps employees who handled this matter did not do their agency proud. They made a formal demand for payment from Mr. Giagni without informing him of the reason for the demand; failed, notwithstanding numerous requests by the employee, to provide documents relevant to the matter until he brought the case to the Board; confusingly introduced into the matter the distinction between temporary and non-temporary storage of household goods, which is irrelevant to this situation; calculated the amount he allegedly owed in differing ways (the last of which, as noted, is based on an incorrect summation of numbers of days of storage); and had the audacity (perhaps in violation of 5 U.S.C. § 5514(a)(2)(D) (2000)) to collect the alleged debt while this case was pending here. Mr. Giagni asks that we require the Corps not only to reimburse him in the amount improperly taken from him, but also to pay him an additional amount to compensate him for the time he spent and the expense he incurred in defending his position.

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<sup>1</sup> Under certain circumstances, an agency may authorize continued storage at Government expense for an additional ninety days. 41 CFR 302-7.8, -7.9. Such an authorization was neither sought nor given in this case.

While we sympathize with Mr. Giagni's plight, we cannot award him any more money than the Corps has improperly taken. Our authority in deciding cases like this one is to settle claims involving relocation expenses incident to an employee's transfer of official duty station. 31 U.S.C. § 3702(a)(3); GSA Order ADM P 5450.39C CHGE 78 (Mar. 21, 2002), ch. 12(a)(2). It extends no further.

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STEPHEN M. DANIELS  
Board Judge