



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 23, 2009

CBCA 1517-RELO

In the Matter of MATTHEW L. MASTERSON

Matthew L. Masterson, Republic, MO, Claimant.

Lisa D. Ferguson, Program Manager, Household Goods, Department of Veterans Affairs, Washington, DC, appearing for Department of Veterans Affairs.

KULLBERG, Board Judge.

Claimant, Dr. Matthew L. Masterson, seeks review of the decision by the Department of Veterans Affairs (VA) that denied reimbursement for the shipment of his medical books to his new duty station. Dr. Masterson's supervisor at his new duty station authorized his request for the shipment of his medical books as professional books, papers, and equipment (PBP&E) after the delivery of his household goods (HHG), which weighed in excess of 18,000 pounds, but the VA's Chief of Transportation and Relocation Services denied his request. For the reasons stated below, the claim is denied.

Background

Dr. Masterson was appointed by the VA to the position of staff psychiatrist at the Gene Taylor Community Based Outpatient Clinic, Mt. Vernon, Missouri. The VA authorized the shipment of Dr. Masterson's HHG from his home in Fairbanks, Alaska, to his new home in Republic, Missouri. On June 3, 2008, Dr. Masterson received guidance from Relocation Management Worldwide (RMW) regarding his impending move. On July 8, 2008, Dr. Masterson was advised that the estimated weight of his HHG shipment was 22,000 pounds. On that same day, Dr. Masterson requested information from RMW

regarding the procedures for shipping PBP&E, and he was instructed to provide RMW with a list of those items to be shipped as PBP&E.

The packing of Dr. Masterson's HHG took place during July 24-28 and 29-30, 2008. On July 27, 2008, Dr. Masterson sent RMW an electronic mail message with his list of approximately 361 books related to the practice of medicine. The books weighed 1220 pounds. A weight ticket dated August 28, 2008, showed that the weight of Dr. Masterson's HHG was 23,990 pounds.

After the delivery of his HHG to his new home, a bill of collection was issued for the costs related to his move that were not reimbursed. Dr. Masterson learned that the weight of his medical books had not been deducted from the weight of his HHG. On December 17, 2008, Dr. Masterson's supervisor authorized the shipment of his books as PBP&E. But, on December 23, 2008, the VA's Chief of Transportation and Relocation Services determined that Dr. Masterson was not entitled to reimbursement for the shipment of his medical books because the submission of his list of medical books to be shipped as PBP&E was untimely, and his supervisor's approval was also untimely since approval was not made before shipment. Dr. Masterson subsequently submitted to this Board his estimated claim of \$2500 for the shipment of his medical books as PBP&E. In his claim letter, Dr. Masterson indicated that his debt for the move exceeded \$10,000.

Discussion

The issue in this case is whether the VA properly exercised its discretion in denying reimbursement for the shipment of Dr. Masterson's medical books as PBP&E. Under 5 U.S.C. § 5724(a)(2) (2006), a relocating employee will receive reimbursement for the storage and shipment of up to 18,000 pounds of his or her HHG. The Federal Travel Regulation (FTR), which is applicable to Dr. Masterson, sets the same weight limit for the shipment of an employee's HHG. 41 CFR 302-7.200 (2008) (FTR 302-7.200). "As . . . frequently noted, these rules leave no room for compromise—if the shipment exceeds 18,000 pounds, the employee must pay for the cost associated with the additional weight." *James R. Wyatt, Jr.*, GSBICA 16038-RELO, 04-1 BCA ¶ 32,573, at 161,186 (citing *George W. Currie*, GSBICA 15199-RELO, 00-1 BCA ¶ 30,814; *Robert K. Boggs*, GSBICA 14948-RELO, 99-2 BCA ¶ 30,491).

The FTR sets the following requirements for an agency's approval of the shipment of a transferring employee's PBP&E:

What guidelines must we follow when authorizing transportation of PBP&E as an administrative expense?

You have the sole discretion to authorize transportation of PBP&E provided that:

- (a) An itemized inventory of PBP&E is provided for review by the authorizing official at the new official station;
- (b) The authorizing official has certified that the PBP&E are necessary for performance of the employee's duties at the new duty station, and if these items were not transported, the same or similar items would have to be obtained at Government expense for the employee's use at the new official station; and
- (c) You have acquired evidence that transporting the PBP&E would cause the employee's HHG to exceed 18,000 pound maximum weight allowances.

FTR 302-7.303. It is the responsibility of the transferring employee to provide an itemized list of PBP&E to the authorizing official at the new duty station. *Ingrid Rodenberg*, GSBICA 13729-RELO, 97-2 BCA ¶ 29,027, at 144,575. Additionally, it has been established that approval for the shipment of an employee's books and papers as PBP&E should be made before the shipment of his or her HHG, but the employee's agency can make such a determination after the employee's move. *Michael L. Rivera*, GSBICA 16350-RELO, 04-1 BCA ¶ 32,615, at 161,407. Such a determination, however, is within the discretion of the agency, and it is critical that "an appropriate agency official certify that the PBP&E are necessary for the performance of the employee's duties at the new official station and that these or similar items would have to be obtained at Government expenses if they were not transported to that location." *Id.* at 161,406-07.

Dr. Masterson contends that he followed the directions given by RMW, and his supervisor approved the shipment of his medical books as PBP&E. Approval of the shipment of his medical books, however, was still subject to the discretion of the VA. Absent from the record is any evidence that Dr. Masterson's supervisor ever certified, as required under FTR 302-7.303(b), that the listed medical books were necessary to the performance of his duties. Also, such a certification by his supervisor required a finding that the VA would have needed to acquire a similar collection of books for Dr. Masterson if his medical books were not shipped. The VA has asserted that it has medical books and other resources available for its medical professionals to perform their work, and Dr. Masterson has not refuted that claim. Under these circumstances, the Board finds that VA properly exercised its discretion not to reimburse Dr. Masterson for the shipment of his medical books.

Decision

The claim is denied.

H. CHUCK KULLBERG
Board Judge