



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 25, 2015

CBCA 4339-RELO

In the Matter of SHELIA D. BACON

Shelia D. Bacon, Charleston, SC, Claimant.

Gerald P. Dale, Financial Management Analyst, Department of the Air Force, Randolph Air Force Base, TX, appearing for Department of the Air Force.

SOMERS, Board Judge.

Claimant, Shelia D. Bacon, an employee of the Department of the Air Force (agency), requests an extension of the one-year deadline for movement and storage of her household goods (HHG) incident to a permanent change of station (PCS). The agency maintains that it is precluded from granting the extension. For the reasons set forth below, the Board affirms the agency's determination and denies the claim.

Background

Ms. Bacon accepted a position as a new appointee with the Air Force. The agency relocated Ms. Bacon via PCS orders, issued September 9, 2013, from Fredericksburg, Virginia, to Charleston Air Force Base, South Carolina, with an entrance on duty (EOD) date of October 7, 2013. The PCS orders authorized reimbursement of per diem and travel expenses, along with \$7700 for shipment and temporary storage of her HHG. Ms. Bacon's PCS orders stated that the authorization of expenses would expire one year from her EOD date.

Ms. Bacon's EOD date coincided with a government shutdown. The agency warned new employees that the imminent shutdown could impact PCS orders. One email message, dated September 27, 2013, stated:

Individuals who are NOT current federal employees, but have an EOD date of 1 OCT or later, are directed to remain in place until the furlough is lifted. You will be contacted directly regarding any delays to your EOD.

The message continued:

Upon notification to “Return to Duty”, employees will be authorized to proceed with the scheduled PCS, as long as it’s within 7 days from the original EOD date. If the Return to Duty date extends beyond 7 days from the original EOD date, the EOD date will have to be changed and an amendment to the PCS Order will be required.

The agency contacted Ms. Bacon by telephone, and recommended that she contact her hiring command for further instructions. Accordingly, Ms. Bacon contacted her supervisor, who told her to proceed with the relocation. Ms. Bacon reported for duty on October 7, 2013. Although limited staffing caused by the furlough created some confusion and delay, Ms. Bacon was able to in-process on that same date.

After Ms. Bacon in-processed, she made some initial inquiries about the shipment of her household goods. As Ms. Bacon notes, “After the first encounter with the [household goods office] I held off as far as moving my household goods and focused on getting a place to live and mastering my job and [position description].” Ms. Bacon did not finalize her request to release and ship her HHG until October 22, 2014. Upon receipt, the agency rejected her request because she had failed to submit it by October 7, 2014 (one year from her EOD date).

Ms. Bacon requested that the agency grant an extension of time to submit her travel and relocation allowance. When the agency denied that request, Ms. Bacon submitted her appeal.

Discussion

The relocation benefits which may be paid to new appointees are provided in sections 5722 and 5723 of title 5 of the United States Code. Subject to regulations issued by the Administrator of General Services, the Federal Travel Regulation (FTR), these benefits include, among other things, transportation of an employee’s household goods. 5 U.S.C. §§ 5722, 5723, 5738(a)(1); *James A. Kester*, CBCA 4411-RELO, slip op. at 2 (Apr. 29, 2015); *Rafael E. Arroyo*, CBCA 2228-RELO, 12-1 BCA ¶ 35,042 (2011). The FTR is implemented for civilian employees of the Department of Defense (DoD) in the Joint Travel

Regulations (JTR). *Todd E. Johanesen*, CBCA 3124-TRAV, 14-1 BCA ¶ 35,539 (citing *Jimmy D. Graves*, CBCA 963-TRAV, 08-1 BCA ¶ 33,805).

As a civilian employee of the Air Force, Ms. Bacon is subject to the provisions of the FTR and JTR. When Ms. Bacon reported to her duty station in October 2013, the applicable regulations¹ provided that the agency would not pay the cost of shipping an employee's household goods if the goods were not shipped within one year of the employee's EOD date. Specifically, the regulations provide:

1. CONUS^[2] to CONUS PCSs. The CONUS to CONUS HHG transportation time limitation is 1 year from the employee's report date to the new [permanent duty station (PDS)].

JTR C5165-F.

The regulations further state that the time limitation for HHG shipment may be extended beyond the initial one-year period, but only if the employee's circumstances meet the following exception.

- C. Time Limits. Allowable travel and transportation must be completed within 1 year from the employee's transfer or appointment effective date, except that the 1-year period:

1. Is exclusive of furlough time spent by an employee who begins active military service before the expiration of such period and who is furloughed for the military assignment duration to the PDS for which transportation and travel expenses are allowed; and

¹ An employee's entitlements and allowances for relocation are "determined by the regulatory provisions that are in effect at the time [the employee] report[ed] for duty at [the employee's] new official station." 41 CFR 302-2.3. The agency cites to "JTR 5518 C" as the basis for denying Ms. Bacon's request for an extension of travel and transportation allowances. JTR 5518, Travel in Family Units Not Required, as printed in the October 2013 edition of the JTR, is not applicable to Ms. Bacon's claim. It appears that the agency looked to a post-October 2014 version of the JTR to analyze Ms. Bacon's claim. Rather, JTR C5035 was the applicable section in effect at the time of Ms. Bacon's relocation.

² Continental United States (CONUS) is defined as "the 48 contiguous States and the District of Columbia." FTR 300-3.1.

2. Does not include any time during which travel and transportation is not feasible due to shipping restrictions for an employee who is transferred or appointed to or from an OCONUS PDS; and
3. Is extended (when determined to be in the GOV'T's interest by the DoD COMPONENT) for up to an additional 1 year when the original 1-year time limitation for residence transaction completion is extended under par. C5750-C.^[3] Even when an extension is authorized/approved, PCS allowances must be calculated by using the prescribed allowances in effect on the employee's transfer effective date.

JTR C5035; *see Robert E. Solomon*, CBCA 524-RELO, 07-1 BCA ¶ 33,533.

Ms. Bacon has not shown that this exception applies to this case. Ms. Bacon is not a furloughed active duty military member, was not appointed to a duty station outside the continental United States, and, as a newly hired employee, was not authorized to incur reimbursable residence transaction expenses. Therefore, because Ms. Bacon failed to arrange for the shipment of her HHG within one year from the date she reported for duty, she is not entitled to reimbursement of the expenses. Accordingly, we affirm the agency's action and deny the claim.

JERI KAYLENE SOMERS
Board Judge

³ JTR C5750 covers real estate transactions and unexpired lease expense allowances; JTR C5750-C provides time limits for residence and lease termination transactions.