



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 23, 2015

CBCA 4442-RELO

In the Matter of JOHN M. DAVIS

John M. Davis, Brownsville, TX, Claimant.

Scott A. Tiedt, Director, Transportation and Travel Management, Department of State, Washington, DC, appearing for Department of State.

STERN, Board Judge.

In July 2014, the Department of State (DOS) issued permanent change of station orders to claimant transferring him from Washington, D.C., to Mexico City, Mexico.

Claimant shipped part of his household effects (HHE) to his new permanent duty station and stored the remainder. The total weight of all of his HHE was estimated at 17,286 pounds. Ultimately, it was determined that the actual total weight of all of claimant's HHE was 18,875 pounds. Though DOS became aware of the fact that the initial estimate was incorrect and that claimant's shipment and storage total exceeded 18,000 pounds¹, DOS failed to notify claimant of the new determination. Claimant was assessed, and paid, a charge of \$315 for the shipment and storage of the 875 pounds of HHE in excess of the 18,000 pound limit (discussed below). In addition, claimant continues to be assessed a monthly storage fee of \$40 for the additional 875 pounds of HHE.

¹ DOS had initially been notified that the shipment exceeded 20,000 pounds. It was later determined that this weighing was incorrect.

Claimant asks for a return of the \$315 which he paid, and seeks a directive that DOS pay the excess storage fee of \$40 per month. Claimant argues that if DOS had notified him in a reasonable time of the excess weight of his HHE, he could have brought the weight down to the 18,000 pound limit and not incurred any added costs.

Discussion

When an employee is transferred from one duty station to another, statute authorizes the agency to pay the expenses of transporting the employee's household goods "not in excess of 18,000 pounds net weight." 5 U.S.C. § 5724(a)(2) (2012). The statute leaves no room for compromise. An employee must pay all costs associated with the weight in excess of 18,000 pounds. *Steven P. Shafran*, CBCA 656-RELO, 07-2 BCA ¶ 33,603. The DOS Foreign Affairs Manual (FAM), which applies to claimant, provides:

The combined shipment and storage of effects allowance has been established at the statutory limit of 8,165 kilograms or 18,000 pounds, net weight, for each employee, regardless of family status.

14 FAM 611.6-1.

Claimant argues that DOS should be held responsible for its failure to notify him of the excess weight of his HHE. In *Robbie R. Newland*, CBCA 2076-RELO, 10-2 BCA ¶ 34,561, we stated:

Claimant's argument that the failure of the [agency] to notify him of the excess weight of the shipment relieves him of the obligation to pay, also fails. We have previously held that the erroneous advice of a government agent does not entitle an employee to reimbursement for shipments in excess of that allowed by the statute. *Bruce Bryant*, CBCA 901-RELO, 08-1 BCA ¶ 33,737 (2007). Similarly, the failure of the agency to notify claimant of the excess weight provides no basis for relief. *See Marina A. Galindo*, GSBCA 15501-RELO, 02-1 BCA ¶ 31,775 (recovery denied even when the employee was informed before shipment that the weight of the shipment, which actually was 19,722 pounds, did not exceed 18,000 pounds).

Here, claimant shipped and stored household goods exceeding, in weight, the statutory and regulatory limit of 18,000 pounds. Claimant is responsible for all costs resulting from the extra weight of his HHE. While we do not condone DOS's action in failing to timely notify claimant of the accurate weight, we have no authority to provide claimant with relief in excess of the statutory and regulatory dictates.

Decision

The claim is denied.

JAMES L. STERN
Board Judge