



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 12, 2007

CBCA 656-RELO

In the Matter of STEVEN P. SHAFRAN

Steven P. Shafran, Winchester, VA, Claimant.

Chris Barned, Supervisor, Relocation Section, Bureau of Land Management, Department of the Interior, Denver, CO, appearing for Department of the Interior.

STERN, Board Judge.

In January 2005, Mr. Steven Shafran was relocated by the Department of the Interior's Bureau of Land Management (DOI) from Lakewood, Colorado, to its headquarters in Washington, D.C. Pursuant to statute and regulations discussed below, Mr. Shafran was authorized to ship up to 18,000 pounds of household goods at government expense.

During the same month, DOI arranged for the move and contacted a move management company, Bayer Management Solutions (BMS), to arrange for the shipment and storage of Mr. Shafran's household goods using the actual expense method as set forth in the Federal Travel Regulation (FTR).

In August 2005, BMS estimated the total weight at 2934 pounds above the 18,000 pound authorized limit. Mr. Shafran and DOI were notified of this excess. DOI authorized the increased costs of transportation and storage. BMS also sought and received an approval for any excess costs involved in repacking 178 cartons originally packed by Mr. Shafran, crating and uncrating a table top, and certain other bulk charges. There is no evidence that Mr. Shafran was notified of these proposed additional charges.

The actual weight exceeded the estimates and on October 10, 2005, BMS invoiced DOI for the transport of the goods and one day of storage at a storage location at the destination.

On November 16, 2005, DOI billed Mr. Shafran in the amount of \$3947.39 for the charges of transportation and packing that exceeded the authorized weight of 18,000 pounds. A second bill in the amount of \$287.08 was also forwarded to Mr. Shafran on that date for the costs of storage related to the excess weight.

On February 1, 2006, DOI was billed for seventy-two days of storage plus delivery of the household goods to Mr. Shafran's new residence. On March 1, 2006, DOI issued a bill to Mr. Shafran for \$1959.85, representing the costs of storage and delivery related to the excess weight of the household goods.

In both instances DOI computed the costs to be charged Mr. Shafran based on the ratio of excess weight to the total weight of household goods moved. DOI determined that the excess weight of Mr. Shafran's household goods represented twenty-five percent of the total weight of the move. DOI thus charged Mr. Shafran twenty-five percent of the total charge for transportation, containers, bubble wrap, and packing services, to account for that percent above the authorized limit of the total weight.

On November 29, 2005, Mr. Shafran requested that DOI waive payment of the two bills sent to him on November 16, 2005, until a formal review of the charges could be conducted. Ms. Jenny Trujillo, a collections officer, responded to Mr. Shafran that his request would be forwarded to the waiver committee. Mr. Shafran indicated a concern that there were certain charges that were not included in the original estimate, including that "many additional boxes were used even though the majority of the items were packed in boxes . . . prior to the arrival of the packers." In addition, Mr. Shafran complained about poor quality of packing and the high costs of the packing materials.

On March 16, 2006, Mr. Shafran requested a waiver of payment of the March 1, 2006, bill of \$1959.85, on the basis that the amount billed was erroneous. Mr. Shafran requested a review of the amount billed. Mr. Shafran stated that though the request for payment from DOI was dated February 22, 2006, he did not receive it until March 16, 2006, since the invoice was sent to the wrong room due to a temporary change in Mr. Shafran's office location.

Both requests for waiver were denied by DOI on January 22, 2007.

On January 27, 2007, Mr. Shafran wrote DOI stating that "two significant pieces of household furniture were severely damaged . . . by the movers." Mr. Shafran stated that he was charged for shipping and storage of these items though they were not kept because of the damage.

Mr. Shafran now requests that the Board review the charges for labor associated with packing (\$940.50), packing services (\$5476.80), bubble wrap and packing peanuts (\$275), fuel surcharge (\$4385), and container fees (\$4670). Mr. Shafran also claims that he should not be responsible for the charge of \$260 for the crating and uncrating of the marble top and base for his dining table since these items were damaged by the movers after they were unpacked, resulting in Mr. Shafran's filing an insurance claim. Mr. Shafran states, "I understand I am liable for the fees associated with the excessive weight of my household goods that were moved but find the associated charges . . . unacceptable."

Discussion

When an employee is transferred from one duty station to another in the interest of the Government, statute authorizes an agency to pay "the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking his household goods and personal effects not in excess of 18,000 pounds net weight." 5 U.S.C. § 5724(a)(2) (2000). This statute leaves no room for compromise. An employee must pay for all costs associated with a shipment in excess of 18,000 pounds. *James R. Wyatt, Jr.*, GSBCA 16038-RELO, 04-1 BCA ¶ 32,573. An employee so transferred has a choice to make regarding the movement of his household goods. He may arrange for the move himself or let the agency make all moving arrangements. The FTR provides that if the employee permits the agency to arrange for the move, then that agency will make all arrangements, including packing and unpacking. 41 CFR 302-7.13 (2005). If the shipment of goods is greater than 18,000 pounds, "the Government will pay the total charges and the employee will reimburse the Government for the cost of transportation and other charges applicable to the excess weight." 41 CFR 302-7.200.

Here, Mr. Shafran permitted his agency to move his household goods to his new location. This included the packing of his goods. The General Services Board of Contract Appeals has previously held that the employee is a third party beneficiary of the contract between the Government and the carrier in this type of move, and, if a determination is made by the carrier and accepted by the agency that goods packed by the employee needed to be repacked, then the employee may not challenge this determination. *Wendy J. Hankins*, GSBCA 16324-RELO, 04-2 BCA ¶ 32,686. "[I]t is not the employee's prerogative to substitute his or her judgment as to what services should be paid for if [such a] move is performed." *Id.* at 161,740.

Mr. Shafran challenges the reasonableness of numerous charges assessed against him. DOI assessed all charges based on the ratio of the weight in excess of 18,000 pounds to the total weight of household goods moved. It is fair and reasonable to charge a pro-rata share of packing and other costs based on weight. *Nicholas R. Delaplane*, GSBCA 14961-RELO,

99-2 BCA ¶ 30,489, at 150,602. This formula “has consistently been recognized as an appropriate and equitable method for deriving the portion of shipping costs attributable to excess weight and thus to be borne by the employee.” *John C. Bland*, GSBCA 16094-RELO, 04-1 BCA ¶ 32,431, at 160,490 (2003). Thus, Mr. Shafran is responsible to pay these excess costs. (Mr. Shafran also claims that he was charged for more boxes than actually used. No proof of such excess charges has been presented.)

Mr. Shafran separately challenges DOI’s assessment of any cost of crating and uncrating his dining table since this item was damaged and the subject of an insurance claim. Mr. Shafran questions why he should have to pay for the cost of crating and uncrating a table that was damaged by the movers. Mr. Shafran states, “the reason I am objecting to the cost of [crating and uncrating the table is due to the] mishandling of the table after it was uncrated and dropped by the movers and damaged resulting in it being salvaged.”

Mr. Shafran does not challenge the quality of the table packing. As we have stated, he is responsible for his pro rata share of the excess costs of such packing. Mr. Shafran claims that he should not have to pay for any cost of crating and uncrating the table since the item was damaged. However, the subsequent damage was caused by the movers after the item was uncrated. Mr. Shafran has been reimbursed for the costs of this damage.¹ This subsequent damage does not relieve Mr. Shafran of the packing charges.

The claim is denied.

JAMES L. STERN
Board Judge

¹ The Board’s authority to settle claims by federal employees for relocation expenses does not extend to claims for loss and damage to household goods. *Roxanna E. Zamora*, GSBCA 16741-RELO, 06-1 BCA ¶ 33,165 (2005).