



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 16, 2008

CBCA 756-RELO

In the Matter of GEORGE C. HLOSEK

George C. Hlosek, APO Area Europe, Claimant.

Jeremy Weinberg, Office of the Legal Adviser, Department of State, Washington, DC, appearing for Department of State.

DeGRAFF, Board Judge.

Claimant challenges the agency's determination that he must pay the cost of shipping household effects which exceeded the weight allowance contained in his travel authorization and in the relevant regulations. Because claimant has not established the agency's determination of the weight of his shipment was erroneous and because the regulations require him to pay the cost of shipping effects in excess of the weight allowance, we deny the claim.

Background

In mid-2006, George C. Hlosek, an employee of the United States Department of State (State) in Turkey, was scheduled to return to the United States. State prepared a travel authorization which listed the expenses State would pay in connection with his return. Mr. Hlosek was authorized to transport 7200 pounds of household effects and 600 pounds of unaccompanied baggage from his post in Turkey to the United States, at State's expense. Because Mr. Hlosek was interested in finding another position in Europe, he decided to have his household effects shipped to the Czech Republic instead of the United States.

State's moving contractor estimated the weight of his household effects would be approximately 12,000 pounds. When Mr. Hlosek told State of this estimate, several other

State employees began searching to find a way for Mr. Hlosek to avoid paying the costs associated with shipping more than 7200 pounds of effects. They determined, however, that Mr. Hlosek would have to pay for the costs of shipping any excess weight, and informed him of this several weeks before he left Turkey.

The General Services Officer at the Embassy in Turkey says the actual weight of Mr. Hlosek's household effects was determined at the moving contractor's warehouse. The moving contractor's weight certificate for Mr. Hlosek's shipment shows the gross weight, the tare weight, and the net weight of each of twelve crates of Mr. Hlosek's effects. Although most of the tare weights of the crates are the same, the net weights shown on the certificate for each crate are not the same and are not round numbers as was the estimated total weight provided to Mr. Hlosek by the moving contractor. The total net weight of all twelve crates shown on the weight certificate is 12,419 pounds. The original weight certificate provided by the moving contractor was dated July 21, 2006, which was before Mr. Hlosek's household effects were packed. The moving contractor amended the weight certificate to say the date shown on the certificate should have been July 27, not July 21, 2006.

In order to determine the amount to charge Mr. Hlosek for excess weight, State subtracted the 7200 pound household effects allowance from the 12,419 pound net weight of the shipment. Because Mr. Hlosek did not ship any unaccompanied baggage, State also subtracted the 600 pound unaccompanied baggage allowance from the 12,419 pound net weight of the shipment. State charged Mr. Hlosek for shipping an excess 4619 pounds ($12,419 - 7200 - 600 = 4619$).

Mr. Hlosek asks us to review State's determination that he is responsible for paying the cost of shipping 4619 pounds of household effects. He contends the weight of his household effects was only an estimated weight, not an actual weight. Mr. Hlosek also says the moving contractor used an excessive amount of packing material which increased the weight of his shipment. He says he was told his shipment would be weighed at the moving contractor's warehouse and he wanted to be there when it was weighed. However, when he went to the warehouse, he learned his shipment had already left for the Czech Republic. Mr. Hlosek says he never had the opportunity to remove items from his shipment in order to reduce the total weight of the shipment. Mr. Hlosek also says he is not sure State gave him credit for not shipping any unaccompanied baggage.

Discussion

Mr. Hlosek and State agree that the Foreign Affairs Manual (FAM), as it applies to Mr. Hlosek, required State to pay for shipping no more than 7200 pounds of household

effects. 14 FAM 611.6-1(b), 613.1. The FAM also says this 7200 pound weight allowance will be increased by the amount of any unused weight authorization for unaccompanied baggage. 14 FAM 613.4. In addition, the FAM says employees are responsible for the additional costs of overweight shipments. 14 FAM 612.3, 612.3-1(a).

The only evidence of the weight of Mr. Hlosek's household effects is the moving contractor's weight certificate, and using a weight certificate to establish the weight of a shipment is an acceptable practice. Although Mr. Hlosek contends the 12,419-pound net weight shown on the certificate is an estimated weight, no evidence supports this contention. The General Services Officer at the Embassy in Turkey said the actual weight of Mr. Hlosek's household effects was determined at the moving contractor's warehouse. The gross, tare, and net weights shown on the moving contractor's weight certificate are precise weights such as would be derived from actually weighing a shipment, and are not round numbers typical of estimates such as the estimate of 12,000 pounds which the moving contractor provided to Mr. Hlosek before his goods were packed. Mr. Hlosek's opinion that the contractor used too much packing material is not evidence which would lead us to conclude that the net weights shown on the certificate are erroneous. The fact that Mr. Hlosek was not present when his effects were weighed does not relieve him from paying for excess weight when the weight of his shipment is established by a weight certificate and not overcome by clear and substantial evidence of error. *Jaime V. Mercado*, GSBCA 16313-RELO, 04-1 BCA ¶ 32,583. We have no such evidence of error here.

Mr. Hlosek's assertion that he did not have the opportunity to remove items from his shipment in order to reduce its weight is not supported by the evidence. He learned several weeks before his effects were shipped that the moving contractor estimated his effects would weigh approximately 12,000 pounds. He also learned several weeks before his effects were shipped that State could not relieve him of his obligation to pay the cost of shipping any excess weight. He had the opportunity during these weeks to remove items from his shipment in order to reduce its weight and his potential liability for excess shipping costs.

Finally, State did give Mr. Hlosek credit for not shipping any unaccompanied baggage. This is shown by the calculations State made in order to determine which costs were attributable to Mr. Hlosek. State used 7800 pounds as Mr. Hlosek's weight allowance, which consisted of the 7200 pounds allowed for household effects and the 600 pounds allowed for unaccompanied baggage. In doing so, State complied with the provisions of the FAM.

The claim is denied.

MARTHA H. DeGRAFF
Board Judge