



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 27, 2008

CBCA 1091-RELO

In the Matter of WILLIAM C. GENTILE

William C. Gentile, Glendive, MT, Claimant.

Matt Lavender, Office of General Counsel, Western Area Power Administration, Department of Energy, Lakewood, CO, appearing for Department of Energy.

McCANN, Board Judge.

Claimant, William C. Gentile, seeks to have the Western Area Power Administration (Western) cover his home in their guaranteed home purchase program as was allegedly promised by Western as part of Mr. Gentile's agreement to accept employment. We deny the claim.

Background

Mr. Gentile was hired by Western, an agency within the Department of Energy, on November 11, 2007. His duty station is located in Glendive, Montana. Prior to being hired by Western, Mr. Gentile was an employee of the Department of the Interior in Colorado. Mr. Gentile's primary residence was a mobile/manufactured home located on his land in Hartsel, Colorado.

Mr. Gentile alleges that he was given assurances by Western that the guaranteed purchase of his home would be part of his relocation package, if he accepted employment with Western. He contends that this guarantee played a major role in his decision to accept the position. Mr. Gentile does not name the person or persons he alleges told him that his home would be included in the program. He does state that after being informed that his home was not eligible for the program the travel customer service representative said to him, "they have to buy your home, it's in the contract." The only decision by Western on this issue is the contracting officer's decision to deny his application for the program.

Discussion

As a transferred federal employee, Mr. Gentile is eligible for certain relocation benefits. Some of these benefits relate to “expenses of selling your old residence and purchasing a new residence. . . .” 41 CFR 302-11.6(a) (2007). However, the Federal Government is not authorized to purchase an employee’s residence. *Id.* 302-12.110. Nevertheless, it may “enter into contracts to provide relocation services to agencies and employees . . . [and] may pay a fee for such services.” 5 U.S.C. 5724c (2000). “Such services include arranging for the purchase of a transferred employee’s residence.” *Id.*

Western has a program for entering into contracts with private entities to provide relocation services (including a home purchase program). This service is not mandatory; it is permissive. Western is not required to contract with a relocation services company for relocation services.

The contract at issue here, contract number DE-AB01-06CF50010, is between the Department of Energy and the Cartus Corporation. It indicates as follows:

Mobile/Manufactured Home: A home designed with a frame for moving from one location to another. The basic design is the determining factor. Additional factors include the presence of a HUD 1 Sticker located on the structure, a permanent foundation, taxed as real property and financed with a FHA, VA or conventional mortgage. Modifications that may have been made to the structure after it was assembled or moved to a specific location are not relevant. Applicable state and local laws addressing the definition of mobile homes shall be given great weight in the interpretation of the contract.

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The following properties are not eligible for the Home Sale Services portion of the contract:

- Mobile/manufactured homes (whether or not affixed to real property owned by the employee). Mobile/manufactured homes constructed after 1976 have HUD1 stickers attached. The Contractor when determining the mobile/manufactured home status may use other criteria. See Mobile/Manufactured Homes definition.

Under these contract provisions, mobile/manufactured homes are not eligible for services. Accordingly, Mr. Gentile's mobile/manufactured home is not eligible for relocation services.

Mr. Gentile argues that unidentified people at Western told him that his home would be covered under the relocation program, and that he relied on this representation to his detriment. He indicates that obtaining relocation services was a big factor in his decision to accept the new job. Mr. Gentile's arguments lack merit. Bald allegations of representations made by unknown people at Western carry no weight. We do not know what was said to Mr. Gentile, who said it, or whether the people who allegedly made the statements had any authority whatsoever. Accordingly, Mr. Gentile's misrepresentation argument fails for lack of proof and specificity. Furthermore, even if such representations were made they likely would not be binding on the Government. It is well settled,

[T]he Government cannot be held to its representatives' promises when they are contrary to law; subjecting the Government to estoppel in these circumstances would allow it to spend money in ways which are forbidden by Congress.

Terrance A. Reedy, GSBCA 16797-RELO, 06-2 BCA ¶ 33,307 (citing, inter alia, *Office of Personnel Management v. Richmond*, 496 U.S. 414 (1990); *Federal Crop Insurance Corp. v. Merrill*, 332 U.S. 380 (1947)).

Mr. Gentile also argues that Western never informed him that he would not be covered under the program. We are aware of no obligation on the part of the Government to so inform its employees. Again, Mr. Gentile's argument fails.

Finally, Mr. Gentile argues that Western's Employee Relocation Handbook (May 2007) seems to indicate that even a mobile home would be accepted into the program under certain circumstances, circumstances which his home allegedly satisfied. Again, Mr. Gentile's argument fails. Western's handbook, even if it did allow the acceptance of mobile homes, would not compel Western to place Mr. Gentile's home in the relocation program. As we have indicated, it is the contract that controls here. If the contract does not cover mobile homes, Mr. Gentile's mobile home cannot be placed in the program.

R. ANTHONY McCANN
Board Judge