



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 27, 2008

CBCA 1004-RELO

In the Matter of JASON A. HANLEY

Jason A. Hanley, Honolulu, HI, Claimant.

Cindy Osif, National Business Center, Financial Systems Division, Department of the Interior, Denver, CO, appearing for Department of the Interior.

SHERIDAN, Board Judge.

Claimant, Jason A. Hanley, an employee of the United States Fish and Wildlife Service's (USFWS) Hawaiian and Pacific Islands National Wildlife Refuge, seeks review of the agency's decision disallowing \$1499.38 in costs that Mr. Hanley incurred when he self-shipped 493 pounds of household goods (HHG) to his new duty station.

Background

USFWS issued a travel authorization on May 29, 2007, for a permanent change of station (PCS) for Mr. Hanley from Fort Myers, Florida, to Honolulu, Hawaii. Among other things, shipment of HHG by a government bill of lading (GBL) carrier and en route "excess baggage not to exceed 500 lbs" were authorized.

Mr. Hanley shipped by GBL carrier 16,500 pounds of HHG from Fort Myers to Honolulu. The GBL carrier rate was \$1.9045 per pound, for a GBL transportation charge of \$31,424.25. Additionally, Mr. Hanley self-shipped 493 pounds of HHG: 142 pounds on June 15, 2007, 140 pounds on June 20, 162 pounds on June 30, and 49 pounds on August 7. Of the 493 pounds that were self-shipped, 373 pounds were shipped by air and 120 pounds were shipped by ocean freight. Mr. Hanley and his family performed en route travel on June 21, 2007.

Subsequently, on his en route travel voucher, Mr. Hanley requested reimbursement of \$2407.61 for the self-shipment of HHG and \$30.59 for boxes used for the self-shipments. On August 30, 2007, the agency disallowed the \$2438.20 requested reimbursement, explaining: "self-shipment of household goods was not authorized on employee's travel authorization. Therefore, all UPS [United Parcel Service] shipping charges (\$2407.61) and the related charge of (\$30.59) for boxes have been disallowed."

Amendment 1 was issued to the travel authorization on September 16, 2007, "to authorize a partial self-shipment of household goods not to exceed 500 lbs." Mr. Hanley submitted a reclaim voucher for \$2438.20. On October 19, 2007, the agency allowed \$938.92 of the voucher and disallowed \$1499.28, determining:

Excess Cost Resulting From Self-Shipment; per page 13 of Employees on the Move Handbook, "Employees who move themselves will be reimbursed only for their actual moving expenses, not to exceed the cost that would have been incurred by the Government if the lowest-cost commercial carrier had been used." The cost to the government for shipping the bulk of employee's household goods was \$1.9045/lb. by GBL. Employee is limited to that rate for reimbursement for self-shipment of the 493 lbs. Allowed 493 lbs. @ \$1.9045/lb. = 938.92, not 2438.20 as claimed. Please find attached calculation sheet and copy of GBL invoice.

The claimant disputes the determination. He maintains that the HHG being shipped by GBL carrier took two months to arrive in Honolulu, and that he was granted self-shipment of 500 pounds of HHG, separate from the GBL shipment of HHG. Because airlines place restrictions on what can be carried on and limit the amount of baggage an individual can check to fifty pounds, Mr. Hanley argues that he needed to send certain items via UPS "to ease the transition of moving for my family and to prevent excess costs to the agency by having to purchase excess goods and services." He notes that:

I specifically spoke to the PCS coordinator about pre-shipping goods to make sure it was within the moving regulation. Due to the fact my move was from Florida to Hawaii, there was no means to ship goods by air at the rate of \$1.90 per pound, the limit set by the Interior for self-shipment of goods. Shipment of goods by boat would have taken approx[imately] a month.

Discussion

The Federal Travel Regulation (FTR) provides that the maximum weight allowance for HHG that may be shipped or stored at government expense is 18,000 pounds. 41 CFR

302-7.2 (2006). “Household goods may be transported and stored in multiple lots, however, your maximum HHG weight allowance is based on shipping and storing all HHG as one lot.” *Id.* 302-7.3.

Here, the USFWS authorized the claimant to ship his HHG by GBL carrier at a per pound rate of \$1.9045, and he used this mode of shipment for 16,500 pounds of HHG. The claimant also self-shipped 493 pounds of HHG that he wanted to receive at his new station earlier than the GBL-shipped HHG would arrive. The claimant’s self-shipments of HHG are included as part of the 18,000 pounds of HHG he was authorized to ship. Although the claimant incurred increased costs for self-shipment, he is nonetheless only entitled to be compensated at the applicable rate used to ship his HHG via GBL.

USFWS policy regarding a PCS is set forth in the USFWS Service Manual, which provides for the authorization of “shipments of up to 18,000 pounds of HHG.” USFWS Service Manual, ch. 1, PCS Policy and Entitlements, 266 FW 1.5H (1999) (Service Manual). USFWS employees are also directed to the “Employees on the Move” Handbook for more specific guidance on entitlements and limitations regarding PCS moves. *Id.* 1.4.

The USFWS Handbook contemplates shipping HHG using: “*one of two ways: 1. Government Bill of Lading (GBL) Method . . . 2. Self-Shipment Method.*” USFWS Handbook at 13 (2007) (emphasis added). The Handbook directs, however, that “*The GBL method is required for shipments to/from and within OCONUS [outside the Continental United States] areas, which includes Alaska, Puerto Rico and Hawaii.*” *Id.* (emphasis added). USFWS guidance does not specifically address partial self-shipment of HHG where GBL shipment of HHG has been authorized. So, too, there is no guidance on authorizing excess baggage or unaccompanied baggage. Notwithstanding the aforementioned direction to use the GBL method for OCONUS moves, and lack of further guidance, the USFWS retroactively amended the claimant’s travel authorization, changing the allowance of 500 pounds of excess baggage to a partial self-shipment of HHG not to exceed 500 pounds.

The FTR provides that HHG may be transported in multiple lots; however, the maximum HHG weight allowance (18,000 pounds) is based on shipping all HHG as one lot. 41 CFR 302-7.3. Regarding a USFWS employee who is authorized to use the self-shipment method, the USFWS Handbook provides that “[e]mployees who move themselves will be reimbursed only for their actual moving expenses, *not to exceed the cost that would have been incurred by the Government if the lowest-cost commercial carrier had been used.*” USFWS Handbook at 13 (emphasis added).

While no prior cases have addressed the applicable rates to be used for partial self-shipments when GBL shipment was authorized in connection with an OCONUS move,

there are some decisions discussing the partial self-shipment of HHG in terms of shipment of unaccompanied baggage [UAB].¹ Although employees may sometimes be reimbursed the actual cost of air shipment of modest amounts of UAB to or from an OCONUS location, these instances are provided for in regulations to civilian employees of the Department of Defense covered by the Joint Travel Regulations (JTR) and employees of the Department of State and other agencies covered by the Foreign Affairs Manual (FAM). *See Jean S. Nicolas*, GSBCA 16602-RELO, 05-1 BCA ¶ 32,965; *Kellis L. Nobles*, GSBCA 16066-RELO, 04-1 BCA ¶ 32,436 (2003). Relevant provisions of the JTR and the FAM specifically authorize the Government to reimburse an employee for the actual cost of air-shipping UAB to a new duty station.² However, these regulations do not apply to this USFWS employee.

In this case there is no comparable provision in the agency's travel regulations allowing employees to self-ship UAB or HHG to or from an OCONUS area at a shipping rate that is higher than the GBL rate. *See David A. Dunlap*, GSBCA 15764-RELO, 03-1 BCA ¶ 32,120 (2002). It is well established that an agency may not authorize an increase or decrease in travel entitlements fixed by statute or regulation. *Richard G. Bebout*, CBCA 734-RELO (Mar. 24, 2008); *Thomas W. Schmidt*, GSBCA 14747-RELO, 00-1 BCA ¶ 30,757; *Daniel P. Carstens*, GSBCA 14519-RELO, 98-2 BCA ¶ 30,048; *Michael K. Vessey*, B-214886 (July 3, 1984); *Erwin E. Drossel*, B-203009 (May 17, 1982).³

In *Dunlap*, the General Services Administration Board of Contract Appeals (GSBCA) concluded that a transferred employee was not entitled to payment for air shipment of UAB

¹ The FTR defines UAB as being "usually transported by an expedited mode because it is needed immediately or soon after arrival at destination for interim housekeeping pending arrival of the major portion of HHG." 41 CFR, app. A.

² JTR C8000 and C5160 authorize the payment of the actual costs of shipping HHG by the authorized method, including air transport of UAB to/from/between OCONUS PDSs; 6 FAM 148.2-1 authorizes a UAB weight allowance for employees and their eligible family members.

³ Even if the claimant had been assured by the agency's travel office that he was entitled to reimbursement of the entire cost of his self-shipments, the agency's mistake does not operate to expand the entitlement established by regulation. *Dennis W. Del Grosso*, CBCA 734-RELO, 07-2 BCA ¶ 33,686; *Flordeliza Velasco-Walden*, CBCA 740-RELO, 07-2 BCA ¶ 33,634; *Kevin R. Kimiak*, GSBCA 16641-RELO, 05-2 BCA ¶ 33,007; *Lee A. Gardner*, GSBCA 15404-RELO, 01-2 BCA ¶ 31,456; *Wendy Castineira*, GSBCA 15092-RELO, 00-1 BCA ¶ 30,740 (1999); *William Archilla*, GSBCA 13878-RELO, 97-1 BCA ¶ 28,799.

because the applicable regulation, the FTR, did not authorize such payment. *Dunlap*, 03-1 BCA at 158,801. However, the GSBCA looked to another provision of the FTR and determined that some payment was due:

The FTR provides that the cost of shipping HHG may be reimbursed from any origin to any destination so long as the amount paid by the Government does not exceed the cost of transporting the property in one lot by the most economical route from the old official duty station to the new official duty station. 41 CFR 302-8.2(e) (2000); *Thomas A. McAfoose*, GSBCA 15295-RELO, 00-2 BCA ¶ 31,009.

The Board and the Comptroller General have construed this regulation to permit payment for an additional shipment of HHG so long as the total cost does not exceed the cost of moving an employee's HHG at a maximum weight of 18,000 pounds in one lot in the most economical way. *Lore Ann Cardenas*, GSBCA 15074-RELO, 00-1 BCA ¶ 30,790; *Eldean K. Minary*, 73 Comp. Gen. 141 (1994); *Dr. William H. Furhman*, B-256996 (Nov. 20, 1995).

*Id.*⁴

Based on the foregoing precedent, as well as the USFWS Handbook guidance that states, "Employees who move themselves will be reimbursed only for their actual moving expenses, not to exceed the cost that would have been incurred by the Government if the lowest-cost commercial carrier had been used," the most the agency can reimburse the claimant is the constructive cost of shipping claimant's HHG in one lot at the most economical rate. As the most economical rate was the GBL shipping rate, and the agency has already compensated the claimant based on that rate, the agency has done as much as it

⁴ The FTR has subsequently been revised and renumbered to delete the specific language in 41 CFR 302-8(e) (2000) which stated: "The total amount which may be paid or reimbursed by the Government shall not exceed the cost of transporting the property in one lot by the most economical route from the last official station of the transferring employee . . . to the new official station." Currently, the guidance in the FTR states: "You do not have to use the method selected (§ 302-7.301) by your agency, and you may pursue other methods, however, your reimbursement is limited to the actual cost incurred, not to exceed what the Government would have incurred under . . . the actual expense method OCONUS." 41 CFR 302-7.15 (2007). Pursuant to the FTR, for all shipments OCONUS, "the Government assumes the responsibility for arranging and paying for all aspects . . . of transporting the employee's HHG." *Id.* 302-7.301(b).

can within statute or regulations applicable to USFWS employees making an OCONUS move.

Decision

The agency determination is affirmed and the claim denied.

PATRICIA J. SHERIDAN
Board Judge