



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 28, 2008

CBCA 1014-RELO

In the Matter of EUGENIO A. MARQUEZ

Eugenio A. Marquez, Boston, MA, Claimant.

Richard L. Trent, Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice, Washington, DC, appearing for Department of Justice.

STERN, Board Judge.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) requests a decision under 31 U.S.C. § 3529 (2000) (*see* Board Rule 501 *et seq.*), regarding the reimbursement of certain real estate expenses incurred by its employee, special agent Eugenio Marquez. Pursuant to section 3529, a disbursing or certifying official of an agency may request a decision from the Board on a claim by a federal civilian employee for reimbursement of expenses incurred in connection with a relocation to a new duty station. In his response to ATF's request, Mr. Marquez submitted additional expenses that he claims he incurred for a home inspection, radon testing, and a pest certification. We do not consider these expenses since they were not submitted to the Board by the agency as required by the statute. However, we note that the legal rationale set forth below would apply to these expenses. The facts as set forth by the ATF, and not controverted by Mr. Marquez, follow.

While employed by the AFT, Mr. Marquez made a permanent change of station from Mexico City, Mexico, to Boston, Massachusetts. Mr. Marquez attempted to purchase a property near Boston. He placed an offer on the property, but the transaction was not completed because the property was appraised as being worth \$100,000 less than the agreed-upon price in Mr. Marquez's contract with the seller. As a result, Mr. Marquez terminated his contract to purchase the property. Mr. Marquez incurred \$3983.33, in legal fees for services related to his attempt to purchase the house, including charges for a review of the contract, telephone calls by his lawyer, examination of the mortgage, and the drafting of letters, including the one terminating the contract.

Mr. Marquez asked the ATF to reimburse him for all of his attorney fees.

The Federal Travel Regulation provides that an agency can reimburse an employee for residence transaction expenses that are customarily paid by the purchaser of a residence at a new official duty station. Only certain expenses, in limited amounts, may be reimbursed. Based on the result we reach below, we need not determine whether the expenses incurred by Mr. Marquez are of the type and amount that may be paid under the regulatory provisions.

The legal expenses incurred by Mr. Marquez may not be reimbursed by the ATF, because Mr. Marquez did not purchase the property. Our predecessor in deciding these claims, General Services Board of Contract Appeals, held that, under the statute permitting reimbursement of relocation expenses, an employee who is relocated to a new duty station must consummate the purchase of a property to recoup any costs associated with the real estate transaction.

An agency may reimburse an employee for expenses paid in connection with the purchase of one residence at a new duty station, but may not reimburse an employee for fees and costs associated with an unconsummated purchase transaction unless the actions of the Government preclude the employee from completing the transaction. 5 U.S.C. § 5724a (1994).

Glen P. Hamner, GSBCA 15560-RELO, 01-2 BCA ¶ 31,509; *See also Richard W. Sharp*, GSBCA 15507-RELO, 01-1 BCA ¶ 31,399.

There is no evidence that the Government in any way prevented Mr. Marquez's purchase of this property. Hence, there is no authority to pay Mr. Marquez's claim.

Decision

ATF may not reimburse Mr. Marquez for the \$3983.33 of attorney fees he incurred in attempting to purchase a residence at his new duty station.

JAMES L. STERN
Board Judge