



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 21, 2009

CBCA 1681-C(1393-RELO)

In the Matter of DANNETTE WOOD

Travis V. Olmert of Carter, Smith, Merriam, Rogers & Traxler, P.A., Greenville, SC, appearing for Applicant.

Cheryl Holman, Chief, PCS Travel Accounting, Department of Veterans Affairs, Austin, TX, appearing for Department of Veterans Affairs.

DRUMMOND, Board Judge.

Dannette Wood seeks attorney fees and other expenses she allegedly incurred in conjunction with our decision in *Dannette Wood*, CBCA 1393-RELO, 09-2-BCA ¶ 34,217. In that matter, we determined that Ms. Wood satisfied the initial requirement for full reimbursement of her selling expenses, though the issues of “legal title” and “immediate family” issues needed to be revisited and resolved as of the time of sale to determine the allowability of those expenses pursuant to the relevant statute and regulations.

In support of her claim, Ms. Wood alleges that the agency’s conclusion to limit her recovery to 50% was a mistake. She further alleges that she was the “prevailing party.” Accordingly, Ms. Wood claims she is entitled to \$2022.30 in fees and expenses pursuant to Rule 30 of the Board’s Rules of Procedure (48 CFR 6101.30 (2008)) and the Equal Access to Justice Act, 5 U.S.C. § 504 (2006). The agency has not filed a response in this matter.

Discussion

Rule 30(a) of the Board’s Rules reads in part:

An appropriate party in a proceeding before the Board may apply for an award of fees and other expenses, including if applicable an award of attorney fees, under the Equal Access to Justice Act, 5 U.S.C. § 504, or any other provision that may entitle that party to such an award, subsequent to the Board's decision in the proceeding.

The Equal Access to Justice Act reads in part:

An agency that conducts an adversary adjudication shall award, to the prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the adjudicative officer of the agency finds that the position of the agency was substantially justified or that special circumstances make an award unjust.

5 U.S.C. § 504(a)(1).

The definition of "adversary adjudication" in the same statute includes appeals of contracting officer decisions which this Board hears pursuant to the Contract Disputes Act, 41 U.S.C. §§ 601-613. The statutory definition of "adversary adjudication," however, does not extend to decisions which this Board may render pursuant to our claim settlement authority in this case.

Our authority to address Ms. Wood's original claim against her agency stems from 31 U.S.C. § 3702(a), which provides that the Administrator of General Services shall settle claims involving expenses incurred by federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station. The Board exercises that authority by virtue of a delegation from the Administrator to this Board. The definition of "adversary adjudication" in 5 U.S.C. § 504 does not extend to any proceedings which this Board might conduct pursuant to this delegation. *Dennis Nielsen*, GSBCA 15981-RELO, 03-1 BCA ¶ 32,150 (2002); *see also Jerome A. Dosdall*, GSBCA 16244-RELO, 04-1 BCA ¶ 32,464 (2003).

Decision

Accordingly, Ms. Wood's request for attorney fees is denied.

JEROME M. DRUMMOND
Board Judge

