



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 7, 2009

CBCA 1524-RELO

In the Matter of JUAN D. TORRALBA

Juan D. Torralba, Harlingen, TX, Claimant.

Michael N. Spargo, Agency Counsel, Office of the Principal Legal Advisor, Law Enforcement Support Center, Department of Homeland Security, Williston, VT, appearing for Department of Homeland Security.

VERGILIO, Board Judge.

Applicable regulation dictates that “to be reimbursed for expenses incurred in your residence transactions, you must occupy the residence at the time you are notified of your transfer.” A selection notification message from the agency to the claimant informing that the agency has selected the claimant for a specified position, at a given location different from the present duty station, with the note that relocation expenses are authorized, serves as notification of the transfer. Notations that entrance on duty is contingent on travel orders and that expenses incurred prior to receipt of travel orders will not be reimbursed do not serve to lessen the effect of the notification. The claimant may not be reimbursed for resident sale expenses incurred for a home he did not own at the time of receipt of the selection notification.

On March 12, 2009, the Board received a claim from Juan D. Torralba (a civilian employee of the Government) regarding a relocation arising from a permanent change of duty station within the continental United States. In November 2008, the agency provided the claimant with a selection notification for a given position at a different permanent duty station. The notification states that relocation expenses are authorized. It cautions the claimant not to incur relocation expenses prior to receipt of travel orders and that entrance on duty is contingent upon receipt of travel orders. When the claimant received the notice of selection and accepted the change of position, he resided at one residence he owned (residence A). Thereafter, he completed a contract of purchase for a home he was having

constructed at what would become his old duty station (residence B). The claimant seeks reimbursement of resident sale expenses for residence B.

The applicable Federal Travel Regulation (FTR) dictates requirements for recovery of residence transaction expenses. For a relocation within the United States: “to be reimbursed for expenses incurred in your residence transactions, you must occupy the residence at the time you are notified of your transfer[.]” 41 CFR 302-11.5 (2008) (FTR 302-11.5). Further, “You may receive reimbursement for the one residence from which you regularly commute to and from work on a daily basis and which was your residence at the time you were officially notified by competent authority to transfer to a new official station.” FTR 302-11.100.

The agency correctly denied reimbursement for the residence in question, residence B. The selection notification served as the official notification of transfer. Upon receipt of the notification, the claimant neither owned and occupied, nor commuted from, the residence for which he seeks reimbursement. The claimant’s completion of forms listing residence A or residence B or both is not dispositive. The legal question to be resolved is whether the selection notification constitutes official notification of the transfer. Here, the agency reasonably concludes that it does. Later issued travel orders were not the initial official notification of the transfer. *Jorge L. Gonzalez*, CBCA 984-RELO, 08-2 BCA ¶ 34,004.

The Board denies the claim.

JOSEPH A. VERGILIO
Board Judge