



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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December 3, 2009

CBCA 1693-RELO

In the Matter of BEENA MAHARAJ

Beena Maharaj, Kathleen, GA, Claimant.

Debra R. Stone, Chief, Civil Law Division, Office of the Staff Judge Advocate, Warner Robins Air Logistics Center, Robins Air Force Base, GA, appearing for Department of the Air Force.

**WALTERS**, Board Judge.

Claimant, Beena Maharaj, is seeking reimbursement in the amount of \$17,750 for a real estate broker's fee incurred for the purchase of a home in connection with her permanent change of station (PCS) from Florida to Robins Air Force Base, Georgia. Because broker's fees for the purchase of a residence are not reimbursable under the regulations, the claim is denied.

Background

In November 2008, Ms. Maharaj, a civilian employee of the Department of the Air Force, was issued a PCS authorization to transfer from Florida to Robins AFB, Georgia, where she was to serve as a Supervisory Education Specialist. Among the authorized expenditures listed on her authorization were "real estate expenses." In connection with her relocation, she sold her home in Florida and purchased a home in Kathleen, Georgia, which is near Robins AFB. Although Ms. Maharaj was reimbursed for costs incurred, including a real estate brokerage fee, in conjunction with her home sale in Florida, the Air Force has refused to reimburse her for the \$17,750 she incurred as a real estate brokerage fee in connection with her purchase of the home in Kathleen, Georgia.

In this regard, Ms. Maharaj states that, because the home she was about to purchase in Georgia was subject to “numerous liens,” it went into foreclosure on January 1, 2009. As a result, Ms. Maharaj was forced to submit a bid on the home to the mortgagee bank (which had acquired title by means of the foreclosure) on the “court steps” and used a real estate broker to effect the purchase.

Before going through with this transaction, because the term “real estate expenses” was not further defined within her relocation authorization, Ms. Maharaj repeatedly sought reassurance from the agency via email that a brokerage fee would be reimburseable for the purchase. No response to her email inquiries was provided. Ultimately, she telephoned her designated point of contact, the manager of the Air Force’s Home Marketing Incentive Program, who, during their conversation, “did not indicate that it would be a problem for [her] to be reimbursed.” Ms. Maharaj proceeded with the purchase based on her understanding that the fee would be reimbursed. Subsequently, however, her claim for the purchase broker’s fee was denied as not authorized by the applicable regulations.

She contacted both the Home Marketing Incentive Program manager and his supervisors to seek their assistance. The manager involved acknowledged a lack of familiarity with “destination services,” and they all expressed regret for the “oversight” in failing to provide her with proper guidance. Ms. Maharaj states that, had she known that the fee would not have been reimbursed, she “would have worked something out with the realtor and the seller,” perhaps paying “a portion” (but not all) of the fee “out of [her own] pocket without reimbursement.” The failure to recoup the \$17,750, she indicates, has been financially and emotionally stressful to herself and her family.

Claimant now seeks the Board’s review of the agency’s denial.

### Discussion

The Air Force correctly found that the applicable regulations clearly preclude recovery of real estate broker fees for the purchase of a home at the employee’s new duty station. In this regard, the Federal Travel Regulation (FTR) states:

#### **What residence transaction expenses will my agency not pay?**

Your agency will not pay: . . .

(b) Broker fees or commissions paid in connection with the purchase of a home at the new official station.

41 CFR 302-11.202 (2008). Similarly, the Joint Travel Regulations (JTR) provide:

A. Reimbursable Expense

1. Broker's Fees or Real Estate Commission. A broker's fee/real estate commission for services in selling the residence is reimbursable, but not in excess of rates generally charged for such services in the old PDS locality. *No such fee/commission is reimbursable ICW [in connection with] the new PDS home purchase.*

JTR C5756 (emphasis added). The General Services Administration Board of Contract Appeals (GSBCA), our predecessor board formerly responsible for the disposition of travel and relocation related matters, consistently denied reimbursement of purchase broker fees on this basis. *Richard G. Britner*, GSBCA 15542-RELO, 02-1 BCA ¶ 31,774; *Daniel Pierson*, GSBCA 15212-RELO, 00-1 BCA ¶ 30,823.

While it is unfortunate that Ms. Maharaj was not provided appropriate guidance notwithstanding her repeated inquiry, both this Board and the GSBCA have held that, even where incorrect guidance is furnished more directly than was the case here, the claimant would not be entitled to benefits that are not authorized by statute and regulation. *Thomas W. Jung*, CBCA 1519-RELO, 09-2 BCA ¶ 34,216.

Decision

The claim is denied.

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RICHARD C. WALTERS  
Board Judge