



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 2, 2012

CBCA 2611-RELO

In the Matter of A DEPARTMENT OF JUSTICE EMPLOYEE

A Department of Justice Employee, Claimant.

James E. Hicks, Office of Chief Counsel, Drug Enforcement Administration, Department of Justice, Springfield, VA, appearing for Department of Justice.

BORWICK, Board Judge.

Claimant, a Department of Justice employee, contests the agency's assessment of \$1520.14 for the cost of a permanent change of station (PCS) move of household goods (HHG) that exceeded 18,000 pounds. Because the agency properly assessed claimant under statute and the governing Federal Travel Regulation (FTR), the Board denies the claim.

Background

On or about March 20, 2004, the agency notified claimant of his abrupt PCS from foreign post A to foreign post B. In furtherance of that transfer, claimant's HHG were packed; about 7200 pounds were moved to foreign post B and 12,257 pounds were placed in permanent storage domestically. On July 8, 2004, the agency advised claimant that the total weight of his HHG shipment was 20,157 pounds and that claimant would be charged for the excess over 18,000 pounds. The agency, however, did not assess claimant charges for the excess weight.

On May 3, 2006, claimant was transferred from foreign post B to a domestic post. Claimant's HHG at the foreign post were packed, and claimant also requested delivery of the HHG from permanent storage. The actual weight of the HHG delivered from storage was 12,800 pounds and the total weight of the HHG transported was 20,025 pounds. Again, the agency did not then assess claimant excess weight charges.

By letter of April 26, 2011, after an agency audit, the agency advised claimant that claimant owed \$1520.14 for the shipment of 20,025 pounds of HHG in excess of 18,000 pounds resulting from the May 2006 PCS transfer from foreign post B to the domestic post. The agency attached the carrier's weight tickets verifying the weight of the shipment. Claimant does not dispute the accuracy of the weight tickets.

Before these transfers, claimant was fully advised orally and through the agency's provision of handbooks and manuals as to the 18,000 pound limitation on shipment of HHG and the agency's policy in administering shipment of HHG, including the fact that the employee would be responsible for reimbursing the agency for any HHG excess weight charge.

Discussion

Statute provides that when an agency transfers an employee in the interest of the Government, the Government must pay for the cost of moving HHG, but only those HHG not in excess of 18,000 pounds. 5 U.S.C. § 5724(a)(2) (2006). In 2006, the year of claimant's move to the domestic post, the FTR provided that the maximum weight of HHG that could be shipped or stored at Government expense was 18,000 pounds, 41 CFR 302-7.2 (2006), and that the 18,000 pound weight limitation "is mandated by statute and cannot be exceeded." 41 CFR 302-7.5. The FTR is the same today. 41 CFR 302-7.2, .5 (2010). We have consistently held that the weight limit is firm and cannot be relaxed. *See Charles H. Noonan*, CBCA 2557-RELO (Jan. 12, 2012), and cases cited therein.¹

Claimant ascribes the overweight of the HHG to the necessity of the abrupt move in 2004, but the excess weight for which the agency seeks reimbursement is the 2006 move from the foreign post to the domestic post. Claimant, being fully informed as to the overweight condition of the move in 2004, has not explained why it was not possible to lighten the load of the stored HHG before the move in 2006. Regardless, under statute and regulation claimant must reimburse the agency for the cost of moving the HHG that exceeded 18,000 pounds.

ANTHONY S. BORWICK
Board Judge

¹ The exception is the rare case in which the mover's certified weight tickets are so clearly erroneous as to come close to being fraudulent. *Vincent A. LeDuc*, CBCA 1166-RELO, 08-2 BCA ¶ 33,997. *LeDuc* does not apply to the facts of this case.