



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 14, 2012

CBCA 2728-RELO

In the Matter of KRISTIN PHERSON

Kristin Pherson, Hendersonville, TN, Claimant.

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

GOODMAN, Board Judge.

Claimant, Kristin Pherson, is an employee of the Department of Veterans Affairs. She asks this Board to review the agency's denial of reimbursement of the down payment she made when she purchased a residence at her new duty station consequent to a permanent change of station (PCS) move.

Factual Background

Claimant was issued PCS orders in 2011 with authorization for reimbursement of real estate transaction expenses. When she purchased a residence at the new duty station, the lender informed her that as a pre-condition for her receiving a Federal Housing Administration (FHA) loan, she was required to make a cash payment (down payment) of a minimum of 3.5% of the purchase price as the FHA would not finance 100% of the purchase price. Accordingly, claimant made the required down payment and financed the

remainder of the purchase price. She sought reimbursement of the down payment as a real estate expense, and was advised by the agency that the down payment was not reimbursable. She asks this Board to review the agency's determination.

Discussion

Transferred employees, when authorized, may be reimbursed for the expenses they incur purchasing a new residence in the United States. 41 CFR 302-11.6 (2011). Reimbursable expenses are detailed in 41 CFR 302-11.200 *et seq.* These transactional expenses are separate from the payment of the purchase price; they are fees and other charges paid to entities such as lenders, attorneys, mortgage companies, and taxing authorities that provide services or require tax payments incidental to the transfer of title from seller to purchaser.

The payment of the purchase price by purchaser to seller is the real estate transaction; it is not a real estate transaction expense. This payment is accomplished by borrowed funds, cash payments (often referred to as down payments), or a combination of both. The portion of the purchase price that is not financed is the purchaser's equity interest in the property (if the purchase price is an accurate reflection of appraised value), and the financed portion is debt to be paid under the conditions of the loan.

In this case, the total of claimant's down payment and the FHA loan equaled the purchase price that was paid by claimant to the seller and it is therefore clear that the down payment was a component of the transaction and not a transactional expense in addition to the purchase price. The fact that the FHA required a down payment as a pre-condition of issuing the loan does not make the down payment a transactional expense. Accordingly, claimant is not entitled to the reimbursement she seeks.

Decision

The claim is denied.

ALLAN H. GOODMAN
Board Judge

