



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 12, 2013

CBCA 3095-RELO

In the Matter of PHILIP D. HAYES

Philip D. Hayes, Melbourne, FL, Claimant.

Maurice Sims, Chief, PCS Processing Unit, Force Renewal and Development Division, Department of the Air Force, Randolph Air Force Base, TX, appearing for Department of the Air Force.

BORWICK, Board Judge.

Was claimant Philip D. Hayes, a local hire and therefore not entitled to permanent change of station (PCS) benefits or benefits as a new appointee? This is the question posed by his claim against the Department of the Air Force, agency. We conclude that claimant was a local hire, only thus not entitled to either PCS benefits or benefits as a new appointee.

Background

Claimant was hired as a meteorologist at Patrick Air Force Base (AFB), Florida. Before his hire by the agency, he had worked for a short time as a contract meteorologist with a private firm at Patrick AFB. On or about October 1, 2012, claimant signed a lease for a residence near Patrick AFB and at that time he was resident in the area. On October 4, the agency offered him a job; on October 5, claimant accepted the job offer. On October 25, the agency advised the base personnel office of claimant's status as a local hire. On October 29, the agency advised claimant that it would not issue a transfer authorization to him because he was a local hire.

Claimant moved to Florida when he worked for the private firm. Claimant says that under his contract with the private firm "no relocation [was] offered [with the]

understanding that my position with Patrick AFB would be responsible for such an expense when transfer of the job began.”

From the agency’s determination, claimant submitted a claim to this Board seeking reimbursement of expenses in the amount of \$2682 for: tolls, one night’s hotel stay during relocation, truck rental, combination lock for rental car, Orlando airport parking, packing supplies, gas for truck rental and personal vehicle, and airplane ticket when he or his family moved from Virginia.

Discussion

Statute provides for PCS expense entitlements for “the travel expenses of an employee transferred in the interest of the Government from one official station or agency to another for permanent duty, and the transportation expenses of his immediate family.” 5 U.S.C. § 5724(a)(1) (2006). In this instance, claimant was not transferred in the interest of the Government from one official station or agency to another for permanent duty. Claimant was hired as a federal employee locally. Such local hires are not entitled to PCS benefits as transferred employees. *Randy Prewitt*, CBCA 1548-RELO, 09-2 BCA ¶ 34,253. Nor is claimant entitled to benefits available to a new appointee. The payment of benefits to a new appointee is discretionary with the agency. 5 U.S.C. § 5723¹; 41 CFR 302-3.2

¹ Section 5723 provides in pertinent part:

a) Under regulations prescribed under section 5738 of this title and subject to subsections (b) and (c) of this section, an agency may pay from its appropriations -

(1) travel expenses (A) of a new appointee, or a student trainee when assigned on completion of college work, to any position . . . ;

(2) transportation expenses of his immediate family and his household goods and personal effects to the extent authorized by section 5724 of this title; and

(2012). Furthermore, save for individuals involved in presidential transition activities, a new appointee may not be reimbursed expenses if he relocated to his duty station prior to his appointment. 41 CFR 302-3.5. The record does not demonstrate that the agency exercised its discretion to grant claimant benefits available to a new appointee, and the record shows that claimant had relocated to the area of his permanent duty station before the assignment to his new position. *See generally Anthony P. Belmont*, GSBICA 15463-RELO, 01-1 BCA ¶ 31,344. Furthermore, the expenses for which claimant seeks reimbursement are not authorized by statute. The governing statute grants entitlement for expenses from an employee's place of residence at the time of his selection or assignment to his or her post of duty. 5 U.S.C. § 5723(a). In claimant's case, that residence was Florida, not Virginia.

The understandings between claimant and his previous contractor-employer cannot enlarge claimant's entitlements beyond those provided in statute and regulation.

Decision

The Board denies the claim.

ANTHONY S. BORWICK
Board Judge

(3) the expenses of transporting a privately owned motor
vehicle

from his place of residence at the time of selection or assignment to his duty
station.