



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 23, 2013

CBCA 3472-RELO

In the Matter of JEFFERY A. McQUILLAN

Jeffery A. McQuillan, Harvest, AL, Claimant.

Sheila A. Melton, Defense Finance and Accounting Service, Department of the Army, Indianapolis, IN, appearing for Department of the Army.

BORWICK, Board Judge.

Claimant, Jeffery A. McQuillan, a civilian employee of the Department of the Army through the Army Materiel Command, agency, submitted a claim to this Board contesting the agency's denial of his request to amend an erroneous permanent change of station (PCS) authorization. The PCS authorization inadvertently eliminated claimant's entitlement to participate in the Defense National Relocation Program (DNRP) and other Base Realignment and Closing Commission (BRAC) entitlements upon his relocation from Fort Belvoir, Virginia to the Redstone Arsenal (RSA) in Huntsville, Alabama. For the reasons below, we grant the claim.

Background

Under the BRAC initiative, the agency transferred its headquarters function from Fort Belvoir, Virginia to the RSA. The agency notified appellant of the transfer of function on March 11, 2010; on April 8, 2010, appellant accepted the transfer of function offer.

On August 12, 2010, the agency's Chief of Appropriated Funds Division issued a memorandum formally notifying claimant of his reassignment and the pertinent details of his reassignment. The information included: location of the function, claimant's staff office, and claimant's position, title, and grade. The memorandum stated that if claimant accepted the assignment, he would be eligible to receive all BRAC relocation allowances, but that if claimant should decline the reassignment, he would be placed in a priority

placement program. BRAC relocation entitlements include use of the DNRP, under which transferred employees may have their home purchased by the Government. A Department of the Army memorandum of August 23, 2010, provides that employees who relocate under the BRAC initiative must be offered the DNRP home sale benefits. *See Thomas C. G. Helgeson*, CBCA 1342-RELO, 09-1 BCA ¶ 34,020.

The memorandum's author said that once he and the claimant had agreed on a reassignment date, the author would provide the Civilian Personnel Advisory Center (CPAC) claimant's name and information, that CPAC would schedule a mandatory "know before you go" briefing, and that, if claimant failed to relocate by the mutually agreed date, the agency would consider that failure a declination of the transfer of function.

On August 16, 2010, claimant accepted the reassignment and chose March 27, 2011 as his reassignment date. While claimant was waiting to attend CPAC's "know before you go" briefing, the Department of Defense Undersecretary for Personnel and Readiness issued an urgent request for personnel to support the Global War on Terror. Claimant volunteered to deploy to Qatar in support of the United States Army's Central Command (CENTCOM) base in Doha, Qatar.

On August 17, 2010, one day after his BRAC reassignment acceptance, the agency issued claimant a twenty-four month temporary change of station (TCS) authorization to Doha, Qatar, with a reporting date of September 12, 2010. On September 28, 2010, claimant signed an overseas employment agreement with CPAC stating that his acceptance of the assignment includes return rights to his previous position held immediately prior to the overseas assignment under the provision of 10 U.S.C. § 1586 (2012).¹ The agreement also recognized that claimant's return rights would be to the RSA, not Fort Belvoir.

CPAC extended claimant's overseas tour of duty to thirty months. On November 30, 2012, the agency issued PCS orders transferring claimant from Fort Belvoir to the RSA, which it admits erroneously omitted claimant's BRAC entitlements. On December 7, 2012, the agency issued a travel authorization for claimant's return from Doha, Qatar to Fort Belvoir, Virginia. Upon claimant's return to Fort Belvoir, the agency advised him that BRAC entitlements had not been included in his PCS orders to the RSA. Claimant asked the agency to amend the PCS authorization to include those entitlements. The agency,

¹ That section provides that any civilian employee of the Department of Defense assigned under that provision from a domestic post to an overseas rotation position is entitled to return to his or her previous position, if it exists, "without reduction in the seniority, status, and tenure."

believing that claimant was entitled to BRAC relocation benefits, referred the matter to the Defense Finance and Accounting Service (DFAS) for guidance.

DFAS stated that claimant could not obtain BRAC entitlements after his return from Qatar for two reasons: (1) he did not attend the “know before you go” briefing and (2) amending the PCS to include relocation services would be contrary to Joint Travel Regulations (JTR) ¶ C5810-E. The agency thereupon denied claimant’s request and claimant submitted a claim to this Board.

Discussion

The agency’s reasons for denying amendment of the PCS authorization to correct administrative error are not persuasive. An agency may always amend a PCS authorization if all the facts and circumstances show that items that were originally intended to be included were omitted through error or inadvertence. *Neal K. Matsumura*, CBCA 2341-RELO, 11-2 BCA ¶ 34,829; *Diane F. Stallings*, GSBCA 16973-RELO, 06-1 BCA ¶ 33,201; *Joel Williams*, GSBCA 16437-RELO, 04-2 BCA ¶ 32,769. Here, the agency intended to preserve claimant’s BRAC entitlements upon his return from the TCS. Preserving such entitlements would comport with the provision of 10 U.S.C. § 1586(c), which requires an employee rotating back from an overseas deployment under that section to retain the same status as when the employee left. When claimant deployed to Doha, Qatar, his status was that of a BRAC-entitled employee, since he had accepted the BRAC reassignment the day before the agency issued TCS orders to Qatar. Preserving claimant’s entitlements would also comply with the Department of the Army memorandum of August 23, 2010 which makes enrollment in the DNRP home sales program mandatory for employees relocated through the BRAC initiative.

JTR C5810-E, relied upon by the agency to deny the PCS amendment, is not to the contrary. JTR C5810-E merely states that relocation services must be stated on a PCS authorization even when contingent upon other events, such as hardship; that section does not prevent the agency from amending a PCS authorization which mistakenly omitted those services.

The fact that claimant did not attend the “know before you go” briefing is of no import here. First, attendance at that meeting was impossible since claimant was in Qatar. Second, CPAC or the agency could have scheduled a “know before you go” briefing upon claimant’s return to Fort Belvoir and can do so now, if it wishes.

Decision

The Board grants the claim; the agency shall grant claimant's requested PCS amendment.

ANTHONY S. BORWICK
Board Judge