



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 13, 2013

CBCA 3130-RELO

In the Matter of KENNETH J. DEXTER

Kenneth J. Dexter, FPO Area Europe, Claimant.

W.S. Butler, Commanding Officer, Department of the Navy, Naval Air Station, Sigonella, Italy, appearing for Department of the Navy.

GOODMAN, Board Judge.

Claimant, Kenneth J. Dexter, was a civilian employee of the Department of the Navy stationed in Italy when he retired in December 2011. He has asked this Board to review the agency's determination not to extend for an additional year his entitlement to return travel and shipment of personal property.

Background

At that time of claimant's separation date, Joint Travel Regulations (JTR) volume 2, Chapter 5, Section C5085-C.2.b read as follows:

An OCONUS [outside the contiguous United States] activity commanding officer may authorize a delay for a reasonable period of time upon receipt of an employee's written request. Ordinarily, a delay of 90 or less calendar days is reasonable. Under unusual extenuating circumstances that, in the OCONUS activity commanding officer's opinion, warrant a longer delay, return travel may be delayed up to 1 year from the separation date.

When claimant retired, he requested and was granted a one-year extension to his entitlement to reimbursement for return travel to the continental United States and shipment of personal property.

The extension was granted because the claimant's dependant child needed to complete her education in Italy.

After claimant's separation date, and during the one-year extension for his return travel, claimant requested another one-year extension based upon his inability to travel because of a medical condition. He believes this condition will improve with treatment and that he will be able to travel within the additional one-year extension.

Claimant's commanding officer denied the request for an additional extension, stating, "Due to changes to the JTR volume 2, Chapter 5, Section C 5085-C2b, there is no longer an option for me to grant this additional year [extension]." However, the commanding officer asserts that despite his inability to grant the requested extension, he "fully supports [claimant's] request due to extenuating circumstances."

Discussion

The Federal Travel Regulation explains, "Your entitlements and allowances for relocation are determined by the regulatory provisions that are in effect at the time you report for duty at your new official duty station." 41 CFR 302-2.3. These entitlements and allowances include those for relocation back to the United States upon separation from service at an OCONUS post of duty.

The version of the JTR provision that determines claimant's right to return travel is therefore not the version that was in effect on his date of separation from government service or the version that is now in effect. Rather, claimant's right to return travel is determined by the version of the JTR provision that was in effect when claimant executed his last service agreement.

The language of the JTR provision that was in effect on claimant's separation date was substantially the same prior to August 1, 2011, as it is today, with one critical difference: a commanding officer could permit a delay of up to two years, rather than one, under unusual extenuating circumstances.

Decision

The commanding officer should determine the version of the JTR that is applicable to claimant's request and reconsider his response to the request based upon that version.

ALLAN H. GOODMAN
Board Judge