



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 7, 2014

CBCA 3605-RELO

In the Matter of DENNIS P. FOOTE

Dennis P. Foote, APO Area Europe, Claimant.

Vera A. Garcia, Assistant Deputy Chief of Staff, G1 (Civilian Personnel), United States Army, Europe, APO Area Europe, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

When the Department of the Army transferred Dennis P. Foote from Suffolk, Virginia, to Stuttgart, Germany, in January 2012, it authorized him to have shipped to Germany or placed in non-temporary storage, at government expense, up to 18,000 pounds of household goods. Mr. Foote had 9000 pounds of goods shipped to Germany and chose to leave other goods in the house he owned in Virginia. Nearly two years later, he asked the Army to permit him to move into storage at government expense the items he had left in Virginia. The Army responded that it could not do so because more than a year had passed since he had moved to Germany. Mr. Foote has asked us to review that decision.

The Army's determination was correct at the time that it was made. Under the Federal Travel Regulation (FTR), an employee "must complete all aspects of [his] relocation within one year from the effective date of . . . transfer." 41 CFR 302-2.8 (2012).¹ The FTR contains

¹ This time limit was previously "within two years from the effective date of . . . transfer." The change from two years to one became effective on August 1, 2011. 76 Fed. Reg. 18,336 (Apr. 1, 2011). Because an employee's "entitlements and allowances for relocation are determined by the regulatory provisions that are in effect at the time [he]

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two limited exceptions to this rule, but neither applies to Mr. Foote's situation. *See id.* 302-2.9, -2.10. The FTR also permits the one-year limitation to be extended for another year, but only if the agency has extended the period for reimbursement of real estate transaction expenses. *Id.* 302-2.11 (referencing *id.* 302-11.22). No such transaction was possible for Mr. Foote, since the Government does not pay for the expenses of selling the home of an employee who is transferred overseas unless and until the employee returns to a post in the United States other than the one where he was stationed before he left this country. *See* 5 U.S.C. § 5724a(d)(3) (2012).

Due to changed circumstances, however, the Army may now authorize Mr. Foote to move his household goods in Virginia into non-temporary storage at government expense. In January 2014, Mr. Foote's request to extend his tour of duty in Germany until 2017 was approved. The Joint Travel Regulations (JTR) provide that "[s]igning the renewal agreement . . . can be the basis for reestablishing expired authority for [household goods] . . . to the extent of a prior order that was unused." JTR C5539-A. This JTR provision refers the reader to a decision by the Comptroller General of the United States, 38 Comp. Gen. 653 (1959). That decision allowed the shipment of household goods to an overseas post to which the employee was newly assigned, but both the reasoning of the decision and the language of the JTR provision apply equally to movement of goods into storage when an employee agrees to a second tour of duty at the same overseas post.

The maximum weight of goods which may be transported or stored for a transferred employee at government expense is 18,000 pounds, 5 U.S.C. § 5724(a)(2), and Mr. Foote was authorized that amount. When Mr. Foote was transferred to Germany in 2012, only half of the authorized weight was addressed by government payment. As a result of Mr. Foote's agreement to renew his assignment in Germany, the Government may pay to have the unused

¹ (...continued)

report[s] for duty at [his] new official station," 41 CFR 302-2.3, and Mr. Foote transferred to Germany after the change became effective, the one-year limit applies to him. This limit is now recognized in the Department of Defense's Joint Travel Regulations at paragraph C5305-C.

portion of his weight allowance for household goods – 9000 pounds – placed into non-temporary storage in Virginia.

STEPHEN M. DANIELS
Board Judge