



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 13, 2014

CBCA 3739-RELO

In the Matter of BRENDA M. WELLS

Brenda M. Wells, Jakarta, Indonesia, Claimant.

Ann S. Gibson, Chief, Transportation Operations Branch, Transportation and Management Division, Department of State, Washington, DC, appearing for Department of State.

KULLBERG, Board Judge.

Claimant, Brenda M. Wells, claims reimbursement of her payment of \$506.34 for the shipment of that portion of her household effects (HHE) that were over the statutory weight limit of 18,000 pounds. Ms. Wells seeks a one-time waiver of the statutory weight limit. For the reasons stated below, the claim is denied.

Background

Ms. Wells, a foreign service officer previously assigned to Washington, D.C., was assigned by the Department of State (DOS) to her current overseas post in Jakarta, Indonesia. During January 15-17, 2014, a portion of her HHE was packed for shipment overseas, and the remainder was placed in a storage facility in Maryland. On January 21, 2014, Ms. Wells left the United States and arrived in Jakarta two days later.

The weight of that portion of Ms. Wells' HHE that was shipped to Jakarta was 6803 pounds, and the remainder of her HHE that was sent to storage weighed 11,640 pounds. The total weight of her HHE was 18,443 pounds. The DOS, however, credited Ms. Wells for 120

pounds of unaccompanied air baggage, which reduced her excess HHE weight to 323 net pounds.

On February 7, 2014, Ms. Wells was advised that her HHE were 323 pounds over the 18,000 pound limit, and she was given the choice of paying for the cost of packing and shipping her excess HHE or paying a monthly storage fee. Ms. Wells paid \$506.34 for the cost of packing and shipping her excess HHE. She then notified DOS about having to pay for her excess HHE, and DOS advised her that she could also avoid that cost by removing the excess weight from her HHE that was in storage in Maryland. Ms. Wells determined that such an alternative was not practical. She then filed this matter with the Board requesting a one-time waiver of the cost of shipping her excess HHE and a refund of her payment of \$506.34.

Discussion

The issue in this matter is whether the Board can waive the 18,000 pound weight limit on Ms. Wells' HHE and refund to her the \$506.34 she paid for shipping and packing her excess HHE. Statute provides that an employee transferring in the interest of the Government is entitled to be paid "the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking his household goods and personal effects not in excess of 18,000 pounds net weight." 5 U.S.C. § 5724(a)(2) (2012). The DOS Foreign Affairs Manual (FAM) states that "[t]he combined shipment and storage of effects allowance has been established at the statutory limit of 8156 kilograms or 18,000 pounds, net weight, for each employee, regardless of family status." 14 FAM 613.1-a(1). It has been well established that an employee is responsible for the cost of shipping or storing that portion of his or her HHE in excess of the statutory limit of 18,000 pounds, and this Board does not have the authority to grant relief from that liability. See *Robert Weisberg*, CBCA 667-RELO, 07-2 BCA ¶ 33,608, at 166,437; *Robert K. Boggs*, GSBCA 14948-RELO, 99-2 BCA ¶ 30,491, at 150,604. "[T]hese rules leave no room for compromise—if the shipment exceeds 18,000 pounds, the employee must pay for the cost associated with the additional weight." *James R. Wyatt, Jr.*, GSBCA 16038-RELO, 04-1 BCA ¶ 32,573, at 161,186. Additionally, the FAM states that the employee has the "personal and sole responsibility to pay the cost of any shipments that thereby exceed the combined 18,000 pound limit." 14 FAM 612.3-a.

Ms. Wells contends that she was not advised in a timely manner that her HHE exceeded 18,000 pounds so that she could have avoided the extra expense of \$506.34. In *Robert K. Boggs*, which also involved a DOS employee whose HHE shipment exceeded 18,000 pounds, the General Services Board of Contract Appeals stated the following:

We sympathize with Mr. Boggs' dilemma. Without accurate data, he could not make informed judgments as to which of his belongings merited his spending his own money to store, and which should be sold or donated to other persons. . . . We also agree with the claimant's suggestion that in the interest of fairness, wherever possible, an agency should advise an employee of the weight of his household goods *before* they are shipped or stored, so that he may decide how to deal with the quantity in excess of the weight for which the Government has financial liability. . . . Nevertheless, our sympathies and the department's recent action to remedy an administrative concern and acceptance of a procedure more fair than the one which applied when Mr. Boggs was first posted abroad may not override the law's command that the Government pay for shipping and storing no more than 18,000 pounds of a transferred employee's household goods.

99-2 BCA at 150,604-05. In this case, DOS acknowledges that Ms. Wells should have received notice by January 24, 2014, about the excess weight of her HHE, and she should have been notified at that same time as to her option to remove items from storage in order to avoid paying the cost of shipping her excess HHE. However, DOS also contends that Ms. Wells was responsible for insuring that her HHE did not exceed 18,000 pounds and argues that her claim should be denied. DOS is correct. The result in this matter is not determined by whether DOS or anyone acting on its behalf properly advised Ms. Wells regarding the weight of her shipment. Statute mandates that an employee has to pay for the excess weight of his or her HHE, and this Board does not have the authority to waive that law.

Decision

The claim is denied.

H. CHUCK KULLBERG
Board Judge