



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 29, 2014

CBCA 3843-RELO

In the Matter of JAMES A. SMITH

James A. Smith, Pensacola, FL, Claimant.

Gerald P. Dale, Financial Management Analyst, Headquarters Air Force Personnel Center, Department of the Air Force, Randolph Air Force Base, TX, appearing for Department of the Air Force.

KULLBERG, Board Judge.

Claimant, Mr. James A. Smith, contends that when he transferred to his new duty station, his employer, the Department of the Air Force (USAF), should have allowed him to participate in the guaranteed home sale service (GHS) program. The USAF contends that Mr. Smith was ineligible for the GHS program because he was not selected for his current position at or above the grade of GS-13. For the reasons stated in this decision, the claim is denied.

Background

On April 17, 2013, Mr. Smith executed a transportation agreement for his transfer from Keesler Air Force Base, Mississippi, to his current duty station in Pensacola, Florida. Orders for his transfer were issued on June 27, 2013. His orders show that his grade at his former duty station was GS-12, and his grade at his new duty station was also GS-12. An amendment to his orders, which was dated July 30, 2013, showed a reporting date of August 13, 2013.

After relocating to Pensacola, Mr. Smith requested guidance, in an electronic mail message dated February 6, 2014, as to whether he qualified for the GHS program. The GHS program was a service that assisted certain government employees with the sale of their homes during relocation. He was informed that under Air Force Manual (AFMAN) 36-606, section 1.24.3.2.1, the GHS program was only available to employees selected at the grade of GS-13 or above, and he did not qualify for that program because he was appointed at the GS-12 grade. Mr. Smith then brought his claim to the Board.

Discussion

The issue in this matter is whether the USAF properly determined that Mr. Smith is not eligible for the GHS program. The Joint Travel Regulations (JTR), which apply to Mr. Smith, provide that each Department of Defense component will determine the conditions under which employee relocation services are offered. JTR C5800-B.3. The USAF issued a revision of AFMAN 36-606, which became effective on October 1, 2012. Under section 1.24.3.2.1 of the revised AFMAN 36-606, eligibility for the GHS program required that “the supervisor must make a selection at the GS-13 grade level or higher.”¹ That revised section of AFMAN 36-606 was in effect when Mr. Smith transferred in 2013, and, consequently, he was not eligible for the GHS program because he was not selected at the grade of GS-13 or higher.

Mr. Smith contends that he is eligible for the GHS program because he once held the grade of YC-02, which he argues is the equivalent to GS-13, step 1. Section 1.24.3.2.1 of AFMAN 36-606 states that “[a]n employee selected in other appropriated fund pay banding systems is eligible if the final base salary will be set equivalent to GS-13, step 1 or higher.” That provision does not apply to Mr. Smith. His grade of YC-02 was converted to a GS-12 in a notice of personnel action that had an effective date of September 12, 2010, which was before his selection to his current position. He transferred from a GS-12 position to another GS-12 position, and he was not in another appropriated fund pay banding system at a grade equivalent to a GS-13, step 1 when he was selected for his current position.

Additionally, Mr. Smith contends that he would not have transferred to his current duty station had he realized that he was not eligible for the GHS program. There is no evidence that Mr. Smith was ever advised that he was eligible for the GHS program before his transfer, and his orders did not state that he was eligible for that program. While it is

¹ Before the October 1, 2012, revision of AFMAN 36-606, employees selected at the grade of GS-12 or higher were eligible to participate in the GHS program.

unfortunate that Mr. Smith may have believed that he qualified for the GHS program, he was not eligible when he transferred.

Decision

The claim is denied.

H. CHUCK KULLBERG
Board Judge