



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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December 18, 2014

CBCA 4143-RELO

In the Matter of KEVIN M. LAVIGNE

Kevin M. LaVigne, Camp Zama, Japan, Claimant.

Teesha R. Huggins, Chief, Labor/Employee Relations and Services Division, Regional Human Resources Office, Commander, Navy Region Japan, appearing for Department of the Navy.

**KULLBERG**, Board Judge.

Claimant, Kevin M. LaVigne, a Department of the Army civilian employee at Camp Zama, Japan, applied for and was offered a position with the Department of the Navy (DON) at the Atsugi Naval Air Facility (NAF), Japan. In an electronic mail message dated September 16, 2014, DON informed Mr. LaVigne that he would not be reimbursed for his relocation expenses because the distance between his old and new duty stations was only seven-and-a-half miles, and his move did not “meet the 50 mile distance test as per [Joint Travel Regulations] C5102.” Mr. LaVigne then submitted his claim to the Board, which was docketed on September 22, 2014.

By letter dated October 1, 2014, DON advised the Board that Mr. LaVigne had declined the offer of the new position at Atsugi NAF. Attached to DON’s letter was a copy of Mr. LaVigne’s September 23, 2014, electronic mail message, in which he requested that his transfer be cancelled. Additionally, DON’s letter requested that this matter be dismissed because Mr. LaVigne had not incurred any relocation costs for which he could be reimbursed.

There is no claim in this matter for the Board to decide. Before a federal civilian employee can submit to this Board a claim for the expense of relocation to a new duty station, the Board's rules state that the "claim . . . must first be filed with the claimant's own department or agency (the agency)." Rule 401(c) (48 CFR 6104.401(c) (2013)). "The agency shall initially adjudicate the claim." *Id.* Such a claim by an employee requires that he or she must have actually incurred an expense, and in the absence of an incurred expense, the claim must be dismissed. *See Charles Wright*, CBCA 3484-RELO, 13 BCA ¶ 35,432, at 173,797. Mr. LaVigne did not accept the position with DON, and, therefore, he did not incur any cost for relocation that can be adjudicated at the agency level. In the absence of such a claim, this case must, consequently, be dismissed.

In his submission to the Board, Mr. LaVigne acknowledged that he had not yet transferred, but he was concerned that he would have to vacate his current housing in order to accept the new position and requested that the Board "advise" him. The Board's rules provide for issuing an advance decision under 31 U.S.C. § 3529 (2012) when requested by "an agency disbursing or certifying official, or agency head on questions involving payment of travel or relocation expenses." Rule 501. Mr. LaVigne is not one of those listed officials who can request from this Board an advance decision. Consequently, the Board does not have the authority to give Mr. LaVigne advice regarding relocation.

### Decision

The claim is dismissed.

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H. CHUCK KULLBERG  
Board Judge