



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 31, 2014

CBCA 3439-RELO

In the Matter of DONALD L. BAKER

Donald L. Baker, Aguadilla, PR, Claimant.

Suzanna Hartzell-Baird, Office of Assistant Chief Counsel, Customs and Border Protection, Department of Homeland Security, Indianapolis, IN, appearing for Department of Homeland Security.

MCCANN, Board Judge.

Claimant, Donald L. Baker, asserts entitlement to relocation travel expenses from Jacksonville Florida, to his duty station in Aguadilla, Puerto Rico, and for his relocation back to Jacksonville, Florida. He further claims entitlement to "tour renewal travel" and home leave because of his time spent in Puerto Rico. We dismiss his travel expense claims since these claims were not first brought to the agency and are therefore not within this Board's jurisdiction. With regard to his claim for home leave, that claim is also beyond the jurisdiction of this Board, because leave issues are within the purview of the Office of Personnel Management.

Facts

In 2008, claimant responded to job announcement WAS-135562-OCA/PN for Air Interdiction Agent positions. This Announcement was open and continuous and advertised positions throughout the United States and Puerto Rico. The announcement was promulgated by Customs and Border Protection (CPB), Department of Homeland Security (CPB), and stated that "[R]elocation expenses will not be paid." At the time claimant responded to the announcement he was living in Jacksonville, Florida, and was not employed by the United States Government. Claimant was hired and reported for duty in Aguadilla, Puerto Rico, on

September 2, 2008. He asserts that he was assured that his job would be limited to a period of twenty-four to thirty-six months and that additional benefits associated with overseas travel expenses, such as home leave (overseas tour renewal travel) and travel expenses, would be explained and made available to him upon his entrance on duty.

On March 15, 2012, about three and one-half years after beginning his employment in Puerto Rico, claimant submitted a memorandum indicating that he wanted home leave in July 2012, from the second to the twenty-seventh if he was entitled to fifteen days per year or from the second to the tenth if he was entitled to five days per year. Subsequently he was asked to resubmit the dates he was requesting for home leave. He responded that he would prefer to wait until he received a definite answer regarding the rate of home leave he was accruing. The record does not show that the accrual rate for home leave was ever finally determined or that claimant ever requested and was denied home leave.

By memorandum of May 20, 2013, claimant, while still stationed in Puerto Rico, requested authorization for future relocation expenses from Puerto Rico to the Continental United States due to separation from the Government. This authorization request was denied on June 10, 2013, on the grounds that the vacancy announcement under which he was hired stated that relocation expenses would not be paid. He was informed that he could apply for an unfunded transfer back to the continental United States. He then applied for an unfunded transfer, which was approved.

By memorandum dated June 17, 2013, claimant indicated that he had applied for a voluntary unfunded transfer from the Caribbean Air and Marine Branch to the Jacksonville Air and Marine Branch. In this memorandum claimant indicated that he understood that “no relocation expenses associated with the transfer will be paid by the agency,” and that he would be responsible for all relocation costs. This unfunded transfer was approved in July 2013. Claimant was scheduled to report for duty in August 2013.

On June 28, 2013, claimant filed an appeal at the Civilian Board of Contract Appeals, requesting reimbursement for travel expenses for his relocation to Aquadilla, Puerto Rico, in 2008 and his forthcoming relocation back to Jacksonville, Florida. Claimant estimated the cost for both relocations at \$70,000. Claimant further asserted entitlement to an estimated \$17,292.80 for forty-five days of leave relating to tour renewal travel, and he claims an estimated \$6432 in travel expenses for three trips from Puerto Rico to Jacksonville and back that he claims he was entitled to but did not take, one for each year he was employed in Puerto Rico. Claimant contends that the CBP denied all his claims. The record, however, does not reflect that claimant made these claims to the agency prior to appealing to this Board, and no agency decisions on these claims appear in the record.

Discussion

Rule 401 of the Rules of the Civilian Board of Contract Appeals states in relevant part:

(c) Review of claims. Any claim for entitlement to travel or relocation expenses must first be filed with the claimant's own department or agency (the agency). The agency shall initially adjudicate the claim. A claimant disagreeing with the agency's determination may request review of the claim by the Board.

48 CFR 6104.401(c) (2013). As claimant has not filed his claims with his agency, this Board lacks jurisdiction to rule on this matter.

With regard to claimant's request for a Board determination regarding home leave, such determinations are not within the jurisdiction of this Board. Determinations regarding entitlement to leave are within the purview of the Office of Personnel Management. *See Jorge J Martinez*, CBCA 2265 -RELO, 11-1 BCA ¶ 34,704, at 170,900 (citing *Oscar G. Rivera*, GSBCEA 16332-TRAV, 04-2 BCA ¶ 32,735, at 161,913).

For a discussion of the applicable law and regulations under circumstances very similar to claimant's, we direct claimant's attention to our recent decision in *William G. Sterling*, CBCA 3424-RELO, 13 BCA ¶ 35,438, reconsideration denied (Dec. 6, 2013).

Decision

Claimant's requests for travel expenses and for home leave are dismissed for lack of jurisdiction.

R. ANTHONY McCANN
Board Judge