



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 22, 2014

CBCA 3742-RELO

In the Matter of DANIEL B. HOGAN

Daniel B. Hogan, DPO, Area Pacific, Claimant.

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

McCANN, Board Judge.

Claimant, Daniel B. Hogan, claims entitlement to the costs he incurred in transporting and storing his household effects (HHE) in excess of the 18,000 pound limit.

Facts

Claimant is a foreign service officer who was transferred from Washington, D.C., to Beijing, China, in 2011. During December 2011, claimant's shipments were packed, weighed, and prepared for export or storage. He was authorized 7200 pounds of HHE for shipment to Beijing, and the remainder of his 18,000 pound limit was authorized for placement into permanent storage for the duration of his assignment to Beijing.

The transportation service provider (TSP) performed pre-move surveys and provided an estimate of the weights for his HHE shipments. The TSP estimated 10,617 pounds for storage and 6779 pounds for shipment, for a total of 17,396 pounds of HHE. On the survey form there is a comment from the surveyor that the weight estimates were close to the 18,000 pound limit and that claimant should consider further reducing his HHE so as not to exceed the 18,000 pound limit.

The actual weight of the HHE for storage was 12,068 pounds and for shipment 7198 pounds, for a total weight of 19,266 pounds. The actual weights were submitted to the Government on time and in accordance with requirements. However, the transportation office overlooked the fact that claimant's shipment and storage exceeded the 18,000 pound limit and did not notify him of this fact.

During an administrative audit in November 2013, the excess weight situation was discovered, and claimant was notified by email message on November 30, 2013. The excess costs for packing and storage of the 1266 pounds of excess weight is \$1423.22 through December 2013. Excess storage charges continue to accrue at the rate of \$44.31 per month until the storage weight is brought within the proper limit.

Claimant asks that the Department of State (DOS) bear the cost of packing, storage, and future storage through the end of his current assignment in August 2015, at a total cost of \$2309.42. ($\$1423.22 + \$886.20 = \2309.42). Claimant contends that had he been notified of the excess weight at the time of packout in 2011, he would have reduced the HHE weight to within limits and that the Government's failure to notify him deprived him of his opportunity to avoid storage costs.

Decision

The Foreign Affairs Manual (FAM) indicates that "[w]hen possible, the transportation office should advise the employee of excess transportation charges before effects are shipped." 14 FAM 612.3(b). This provides employees with the opportunity to resolve the excess weight situation prior to shipment. Apparently, such notification was not provided here. Unfortunately for claimant, the FAM places a limitation of 18,000 pounds on all HHE shipped and/or stored. 14 FAM 611.6-1. The DOS and this Board cannot waive this limitation because the FAM limits exceptions to its travel and transportation entitlements to situations where the 18,000 pound limit is not exceeded. 14 FAM 514.1(b)(1).

Furthermore,

The relevant statute, 5 U.S.C. § 5724(a)(2) (2006), authorizes an agency to pay for the transportation of (and related activities involving) household goods and personal effects not in excess of 18,000 pounds net weight. The statutory limitation is implemented in the Federal Travel Regulation, which applies to all civilian employees of the Federal Government. 41 CFR 302-7.2 (2007). If the employee's goods and effects weigh more than 18,000 pounds, the employee is responsible for expenses associated with the additional weight.

41 CFR 302-7.200; *Susan L. White*, CBCA 1227-RELO, 09-1 BCA ¶ 34,021 (2008).

Evan F. Meltzer, CBCA 1536-RELO, 09-2 BCA ¶ 34,272.

Claimant contends that he is entitled to these costs because he was not informed of the overweight situation prior to shipment and storage. However, the Government is not bound by the erroneous advice of its officials even when the employee has relied on this advice to his detriment. *E.g.*, *John J. Cody*, GSBCA 13701-RELO, 97-1 BCA ¶ 28,694 (1996). Accordingly, we cannot waive the excess costs associated with claimant's shipment and storage.

The claim is denied.

R. ANTHONY McCANN
Board Judge