



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

---

October 1, 2014

CBCA 3931-RELO

In the Matter of JERIE RENEE HOLLIDAY

Jerie Renee Holliday, Elizabethtown, KY, Claimant.

Sheila Melton, Director, Travel Functional Area, Enterprise Solutions and Standards, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of the Army.

**SOMERS**, Board Judge.

The Department of the Army, Army Contracting Command, National Capital Region (ACC-NCR), located in Alexandria, Virginia, hired Jerie Renee Holliday, claimant, in February 2011. In November 2012, the Department of the Army announced that, as a result of the Army Contracting Command's decision to relocate the work from the ACC-NCR to other contracting organizations, ACC-NCR staff would be subject to permanent reassignment. On November 16, 2012, Ms. Holliday received official notice of her permanent reassignment to Fort Knox, Kentucky. Ms. Holliday had the option of accepting or declining the reassignment. Ms. Holliday decided to accept.

Ms. Holliday's permanent change of duty orders authorized her to participate in the Department of Defense National Relocation Program (DNRP), a program designed to assist eligible employees with relocation services, and to receive a home marketing incentive

payment (HMIP),<sup>1</sup> if appropriate. As part of this process, Ms. Holliday sold her house to Cartus Corporation (Cartus), the DNRP relocation contractor.

Cartus later sold the residence to a third party. The sales contract between Cartus and the buyer included a general addendum that stated:

All parties to recognize Cartus as being the seller. Seller to give buyer \$5,402.00 towards closing costs. The property transfer tax shall be split 50/50.

The HUD-1 settlement statement indicates that the closing occurred on June 14, 2013.

Ms. Holliday submitted a claim for HMIP to the agency on or about July 1, 2013. She received reimbursement of \$8800 (5% of the purchase price of \$176,000), less income tax withholdings.

Later, on September 11, 2013, Ms. Holliday submitted a real estate claim for \$5402, the amount she says she contributed towards the buyer's closing costs. The agency denied her claim, stating that since Ms. Holliday had elected to participate in the DNRP, she could not also receive further reimbursement for the sale of the residence at her old permanent duty station under the Joint Travel Regulations (JTR).

Ms. Holliday appealed the agency's denial of her claim. In her initial submission, Ms. Holliday states that she should be reimbursed for real estate expenses, specifically, the payment of the buyer's closing costs, in addition to being reimbursed for HMIP. She argues that these benefits are not mutually exclusive and notes that her PCS travel orders specifically authorized reimbursement for real estate expenses and HMIP. Ms. Holliday asserts that she found the buyer, and, as permitted by the DNRP contractor, she negotiated the sale of the home, agreeing to pay the buyer's closing costs.<sup>2</sup> Finally, Ms. Holliday contends that the

---

<sup>1</sup> Under statute, federal agencies may make a HMIP award to an employee who transfers in the interest of the Government, in an amount to encourage the employee to aggressively market the employee's residence at the official station from which transferred. The payment may be made when: (1) the residence is entered into a relocation services program established under a contract in accordance with 5 U.S.C. § 5724c (2012) to arrange for the purchase of the residence; (2) the employee finds a buyer who completes the purchase of the residence through the program; and (3) the sale of the residence results in a reduced cost to the Government. 5 U.S.C. § 5756.

<sup>2</sup> Ms. Holliday presented evidence to show that the buyer's closing costs are customarily paid by the seller of a residence at her old official station.

agency misread the applicable regulations when it denied her claim. Ms. Holliday notes that the JTR is “an adaptation of the Federal Travel Regulation (FTR),” and that the agency “wrongfully denied the same compensation available to federal civilian employees,” citing 5 U.S.C. § 5738 and 20 U.S.C. § 905(c).

In response, the agency argues that the JTR clearly precludes Ms. Holliday from receiving both HMIP and reimbursement of real estate transaction costs. There is no evidence establishing that Ms. Holliday, and not the relocation contractor, paid for the expenses claimed. In any event, the agency notes that Ms. Holliday is not precluded from claiming reimbursement for expenses incurred as a result of her purchase of a residence at her new duty station.

The JTR address whether an employee may receive reimbursement for real estate transaction expenses when the employee uses relocation services. Specifically, JTR C5810-B, entitled “Procedural Entitlements and Controls,” states that “[o]nce an employee accepts relocation services, reimbursement must not be allowed for expenses authorized in other JTR Parts that are similar to expenses/service costs paid under the relocation service contract.” The applicable DNRP employee handbook (revised March 2011) explains that the program “offers an optional alternative to the PCS [permanent change of station] reimbursement process for those authorized employees who must sell their primary residences.” See *Eleridge E. McCracking, Jr.*, CBCA 1881-RELO, 10-1 BCA ¶ 34,431. *McCracking* concludes:

As the JTR provision indicates, and the handbook makes clear, by selling the residence through the guaranteed home sale program, the claimant lost entitlement to costs associated with the sale of his home. The ramifications of the election and sale are expressed in case law. *John D. Stringfellow*, GSBGA 16268-RELO, 04-1 BCA ¶ 32,616 (survey costs disallowed under guaranteed home sale). The claimant used the relocation program and elected a guaranteed home sale as a substitute for reimbursement of otherwise compensable costs of the home sale. Whether the costs are compensable or not had the claimant incurred the . . . costs . . . in a direct sale, the costs are not compensable to the claimant who utilized the guaranteed homesale program.

*Id.* at 169,940-41.

The prohibition against dual benefits applies to the HMIP. JTR C5835-A, the applicable regulation, states:

The home marketing incentive payment is intended to reduce the [Government's] relocation costs by encouraging a transferred employee, who participates in the home sale program, to independently and aggressively market, and find a buyer for, the residence. This employee home sale activity significantly reduces the fees/expenses a DoD [Department of Defense] COMPONENT must pay to a relocation services company and effectively lowers the relocation program cost. *An employee enrolled in the Home Sale Program is limited to the payment limitations in par. C5849 [the maximum amount payable for such allowance]. Subsequent reimbursement is not authorized IAW [in accordance with] par. C5810-B for real estate transaction and unexpired lease expense allowances (par. C5750-A2) or property management (PM) services (par. C5825-D1) after enrolling in the Home Sale Program.*

(Emphasis added.) The regulation plainly states that an employee cannot receive both HMIP and real estate transaction benefits.

As we noted above, one of Ms. Holliday's assertions is that the FTR permits reimbursement for various real estate expenses, even when an employee uses the relocation contractor, and that the same rule should apply to employees covered by the JTR. The premise underlying this assertion, *i.e.*, that the FTR permits dual benefits, is incorrect. In the case of *Andres Arredondo*, CBCA 647-RELO, 07-2 BCA ¶ 33,650, we addressed the issue of dual benefits under the FTR. First, we discussed the 1997 amendments to the FTR, which changed the format of the regulations to a question and answer, "plain English," format. Prior to this change, the FTR contained a provision that clearly prohibited an employee who elected to participate in the relocation program from receiving reimbursement for real estate expenses. Noting that while the amended regulation did not expressly address dual payment, we found that the prohibition still applied, noting:

[N]othing in the new regulation or the supplemental information section of the Federal Register publication of the amended regulation suggested or indicated that the prior dual payment criteria were now abandoned in favor of no reimbursement. Generally, this would mean that the previous rule should remain intact.

*Id.* at 166,626. Contrary to Ms. Holliday's assertions, we find that the regulations are consistent. An employee is prohibited from receiving dual benefits under both the FTR and the JTR.

For these reasons, we conclude that the agency properly denied the claim. Because Ms. Holliday elected to use the services of a relocation company and received a home marketing incentive payment, she must forego any reimbursement for other real estate expenses. Ms. Holliday's claim is denied.

---

JERI KAYLENE SOMERS  
Board Judge