



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 20, 2014

CBCA 3945-RELO

In the Matter of DAVID A. DUESTERHAUS

David A. Duesterhaus, Arnold Air Force Base, TN, Claimant.

Jean R. Love, Division Chief, Air Force Compensation and Travel, Department of the Air Force, Washington, DC, appearing for Department of the Air Force.

VERGILIO, Board Judge.

In connection with a permanent change of station, the claimant was required to complete residence transactions within a one-year period, unless extended by the agency. Three months after the one-year period expired, the claimant sought a nine-month extension to the one-year period to file for reimbursement of closing costs. The record reveals no abuse of discretion by the agency in not extending the time period.

The claimant, David A. Duesterhaus, received authorization to recover real estate transaction expenses incurred in connection with a permanent change of station for the Department of the Air Force. The effective transfer date was his reporting date, October 1, 2012. 41 CFR 302-2.3 (2012) (Federal Travel Regulation (FTR) 302-2.3); Joint Travel Regulations (JTR) C5025. Applicable regulations state that all aspects of the relocation must be completed within one year of the effective date of the transfer. However, the agency could extend that prescribed period. To be eligible for consideration of an extension request, the claimant must submit a request to the agency not later than thirty calendar days after the expiration date, unless the agency specifically extends the thirty-day period. FTR 302-2.8, 302-2.11, 302-11.21 to -11.23; JTR C5750-C. As detailed in the JTR, "Action on a request, submitted more than 30 calendar days after the initial 1-year expiration date, is at the option of the commanding officer of the activity bearing the cost." JTR C5750-C.6. Further, an extension may be granted only if extenuating circumstances prevented the employee from completing the purchase within the initial one-year period and the delayed transactions are reasonably related to the permanent change of station. JTR C5750-C.7.

The claimant's travel authorization calls attention to a website for permanent change of station information and states that the claimant acknowledges receipt of permanent change of station counseling. That counseling, an on-line briefing, part of which was a slide presentation, stated that for real estate: (1) a purchase at the new duty station was authorized, (2) this must be utilized within twelve months of entry on duty, and (3) one twelve-month extension may be requested in very limited circumstances.

The claimant states that weather conditions delayed the completion of construction of his new residence. In October 2013, the claimant took initial occupancy of the home. In December the claimant received an official notice of occupancy. In mid-December 2013, the claimant completed the residential purchase transaction (final settlement on home loan). This occurred beyond fourteen months after the claimant reported for duty at the new duty station. In early January 2014, the claimant submitted a claim to the agency to recover real estate transaction expenses, but was advised that he needed an extension. On January 28, 2014, the claimant submitted a request for a nine-month extension to the one-year period. By memorandum dated May 9, 2014, an agency official found the request for an extension to be untimely and disapproved the extension. The memorandum specifies that the claimant did not offer an explanation about the circumstances that affected his ability to make a timely extension request. This accurately portrays the submission from the claimant.

An agency is not required to extend the one-year period for completing residential transactions. A commanding officer further has discretion when considering a request for an extension submitted beyond thirty days after the expiration of the one-year period.

Although the claimant asserts that he was unaware of the one-year period and requirements to obtain an extension, the travel authorization and available briefing provided actual notice and references to regulations which dictate the requirements. In any event, what is here controlling is that the claimant has not demonstrated that the agency official denying the requested extension acted improperly or abused his discretion in reaching that conclusion based upon the information put forward to that official. *Courtney L. James*, CBCA 2675-RELO, 12-1 BCA ¶ 35,057 (agency official reasonably declined to extend the then two-year period for completing transactions).

The claimant has not demonstrated entitlement to the relocation costs in question.

JOSEPH A. VERGILIO
Board Judge