



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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October 16, 2014

CBCA 3731-RELO

In the Matter of RUSSELL B. ROSLEWSKI

Russell B. Roslewski, Kettering, OH, Claimant.

Maurice Sims, Chief, PCS Processing Unit, Department of the Air Force, San Antonio, TX, appearing for Department of the Air Force.

**ZISCHKAU**, Board Judge.

The agency requests that pursuant to 31 U.S.C. § 3529 (2012), we answer the question of whether a federal civilian employee who is transferring to a new duty station with his recently-retired active duty military spouse may elect to use his wife's military relocation benefits rather than the permanent change of station (PCS) benefits available to him as a federal civilian employee. The agency cites our decision in *Amy Preston*, CBCA 3434-RELO, 13 BCA ¶ 35,465, for the proposition that a civilian employee may not waive his PCS entitlement. We conclude that the situation of the employee, Russell Roslewski, is not covered by the waiver ruling in *Amy Preston*. Rather, the issue here is one of election, and Mr. Roslewski may elect *either* the relocation benefits as the spouse of a military retiree *or* his own PCS relocation benefits as a civilian employee pursuant to 41 CFR 302-3.200 (2013). Obviously, he may not receive duplicate benefits using both reimbursement options.

Mr. Roslewski is a civilian employee of the Department of the Air Force at Wright-Patterson Air Force Base (AFB), Ohio. His wife is a recently-retired active duty military member. After her retirement, she relocated under military retirement orders to Oklahoma City as her home of selection. In his claim submission, Mr. Roslewski states that their household goods were moved using his wife's relocation benefits and that he would be eligible (as a spouse under his wife's military retirement orders) to reimbursement for his relocation from Wright-Patterson to Oklahoma City. He states that he was selected for a civil service position at Tinker AFB in Oklahoma City but, due to budget constraints, his agency was unable to fund a PCS transfer for him. He advised his agency that he would forgo his entitlement to PCS benefits because he could receive relocation benefits through his wife's

military retirement orders. His agency replied that it was not permitted to use his wife's military retirement orders and funding in lieu of his agency's PCS funding. As there was no funding for his PCS benefits, his transfer was being delayed. The agency told the claimant that he needed to file a claim to have the matter resolved. During our proceedings, the agency has requested our answer to the question of whether he may "waive" his agency's PCS funding and obtain relocation benefits through his wife's military retirement orders.

The Federal Travel Regulation (FTR) at 41 CFR 302-3.200 answers the question posed here. It provides:

**§ 302-3.200 When a member of my immediate family who is also an employee and I are transferring to the same official station, may we both receive allowances for relocation?**

Yes, if you and an immediate family member(s) are both employees and are transferring to the same official station in the interest of the Government, the allowances under this chapter apply either to:

(a) Each employee separately and the other is not eligible as an immediate family member(s); or

(b) Only one of the employees considered as head of the household and the other is eligible as an immediate family member(s) on the first employee's TA [travel authorization].

If the family members obtain separate authorization for benefits from their own agencies, they may not both claim the same relocation benefits, and the employing agency or agencies are not permitted to reimburse for the same claimed expenses. FTR 302-3.201. The fact that claimant's spouse is no longer an employee does not alter the application or result – the transfer benefits accrued while his spouse was an employee.

Thus, in this case, Mr. Roslewski properly sought to receive relocation benefits through his wife's military retirement orders. Such an election under FTR 302-3.200 is not a "waiver" of his PCS benefits as discussed in our *Amy Preston* decision. In that decision, we ruled that an employee may not waive her entitlement to PCS benefits but there was no question of an election among benefits some of which are available through a family member who is also a government employee.

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JONATHAN D. ZISCHKAU  
Board Judge