



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 29, 2016

CBCA 5152-RELO

In the Matter of RUTH C. RODRIGUEZ

Ruth C. Rodriguez, St. Johns, FL, Claimant.

Anne Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for the Department of the Army.

LESTER, Board Judge.

On January 7, 2016, the claimant, Ruth C. Rodriguez, submitted a claim to the Board, challenging the demand by the Department of the Army (Army), dated December 9, 2015, that she return a travel overpayment of \$2004.05.

In its demand, the Army indicated that the repayment was necessitated by Ms. Rodriguez's failure to submit a 2014 Relocation Income Tax Allowance (RITA) claim following a permanent change of station (PCS). The RITA is an authorized entitlement that "reimburse[s] eligible transferred [civilian] employees" of an agency "for substantially all of the additional Federal, State, and local income taxes incurred by the employee, or by the employee and spouse if a joint tax return is filed," as a result of a PCS move. 41 CFR 302-17.1 (2014). Although the agency's finance office will "calculate the amount of the gross-up" for the employee's Withholding Tax Allowance (WTA) "and credit this amount to the employee," *id.* 302-17.9(a), the employee is then "required to submit a claim for the [RITA] and to file [certain] tax information" with the agency. *Id.* 302-17.9(b)(1). Failure to submit a claim for the RITA in a timely manner will obligate the employee to repay to the agency the entire amount of the WTA. *Id.* 302-17.7(e)(2).

Ms. Rodriguez indicated in her submission to the Board that the Army's factual assumption was incorrect, that her supervisor had signed her 2014 RITA claim on or about May 5, 2015, and that the claim was then timely submitted to the Corps of Engineers' Finance Center in Millington, Tennessee. She asserted that, until she received the December 9, 2015, repayment demand, she had assumed that the Army had processed the claim. She also provided the Board with a copy of her 2014 RITA claim, signed by her supervisor with a May 2015 date, and the supporting documents that accompanied it.

The agency filed a response on January 28, 2016, in which it represented that Ms. Rodriguez's 2014 RITA claim has been filed and that the agency has now canceled the December 9, 2015, demand that it issued to Ms. Rodriguez (although without providing the Board a copy of the cancellation notice). The Board, in light of the agency's response, asked Ms. Rodriguez to indicate whether she disputed the agency's representation and whether there was any remaining dispute that required the Board's involvement. Even though we issued an order setting a response deadline of February 11, 2016, and subsequently made a further attempt to obtain a response, we have heard nothing from Ms. Rodriguez.

Without any challenge by Ms. Rodriguez to the agency's representations, we have no basis for proceeding with this matter. "Whenever, during the course of litigation it develops that the relief sought has been granted or that the questions originally in controversy between the parties are no longer at issue, the case should be dismissed" as moot because tribunals "will not entertain or proceed with a cause merely to determine abstract propositions of law." *CW Government Travel, Inc. v. United States*, 46 Fed. Cl. 554, 557 (2000) (quoting *Wilson v. Wilson*, 518 S.E.2d 255, 256-57 (N.C. App. 1999)); see *Baney v. Department of Justice*, 237 F. App'x 616, 617 (Fed. Cir. 2007) (case is moot if the agency has unilaterally taken corrective action that provides "the only relief that the [tribunal] could have granted"). Based upon the uncontested facts, the agency has granted the relief sought.

Accordingly, we dismiss Ms. Rodriguez's claim as moot.

HAROLD D. LESTER, JR.
Board Judge