



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 19, 2016

CBCA 5211-RELO

In the Matter of LISA M. MOON

Lisa M. Moon, Arden, NC, Claimant.

Elijia-Desiree Ybarra, Management Analyst, Department of Veterans Affairs Financial Services Center, Austin, TX, appearing for Department of Veterans Affairs.

VERGILIO, Board Judge.

The relocated claimant is not entitled to recover as lease breaking expenses earnest money and a deposit on the purchase lost when the claimant did not complete the purchase of property being rented under a lease/purchase contract.

In August 2015, claimant, Lisa M. Moon, an employee of the Department of Veterans Affairs, entered into a lease/purchase agreement under which she agreed to purchase property in Georgia. The claimant provided a deposit of \$2500 in earnest money. The claimant also paid \$3600 as an advance lease reduction payment for a twenty-four-month lease term. This acted as a deposit reducing the purchase price of the house and the monthly rental payments. Under the agreement, the claimant would be a tenant at the property for twenty-four months, after which point the purchase would be consummated. The \$6100 (the sum of the two figures) was a credit toward the purchase price; the agreement specified: "If buyer changes their mind to not purchase the property or does not purchase the property, then all monies and credits are forfeited." By its express language, this agreement superseded and controlled all agreements, including a "lease for lease/purchase agreement" (under which the security deposit would not be returned at the termination of the lease) which was an exhibit to the lease/purchase agreement.

On January 25, 2016, the claimant's official duty station changed from Decatur, Georgia, to Asheville, North Carolina. As part of the relocation, the agency authorized the recovery of lease breaking expenses. The claimant relocated, vacating occupancy and not purchasing the property. The claimant seeks to recover as lease breaking expenses the \$6100. With references to the agreement, the Federal Travel Regulation (FTR), 41 CFR 302-11.1, -11.7 (2015), and *Samuel G. Baker*, GSBCA 15408-RELO, 01-1 BCA ¶ 31,276, the agency concluded that the lost deposits reflect losses from not purchasing the property and do not represent lease breaking expenses.

The claimant describes the \$2500 as a security deposit and the \$3600 as advanced rent payments as paid pursuant to the lease, and relies upon a receipt from the owner/lessor that refers to the \$6100 as forfeited pursuant to the termination of the lease/purchase agreement.

The lease/purchase agreement demonstrates that the \$6100 was a deposit or credit to be used toward the purchase of the property. These expenditures by the claimant were costs incurred because the claimant did not purchase the property. This amount does not represent a lease breaking expense.

The claimant is not entitled to recover any portion of the \$6100.

JOSEPH A. VERGILIO
Board Judge