



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 17, 2016

CBCA 5293-RELO

In the Matter of JOHN M. MADRID

John M. Madrid, Hollywood, FL, Claimant.

Barbara J. Bahr, Office of General Counsel, National Geospatial-Intelligence Agency, Arnold, MO, appearing for National Geospatial-Intelligence Agency.

VERGILIO, Board Judge.

Relocation between the continental United States (CONUS) and Hawaii does not involve a foreign relocation. Regulations applicable to a foreign relocation do not apply to a real estate transaction for a return from Hawaii to a different CONUS duty station.

With a reporting date of September 2, 2008, the claimant, John M. Madrid, an employee of the National Geospatial-Intelligence Agency, was transferred from a location in the CONUS to Hawaii. The claimant owned a residence proximate to the CONUS duty station. The claimant retained the CONUS residence. With a reporting date of March 25, 2013, the claimant changed permanent duty stations from Hawaii to a CONUS location greater than fifty miles distant from the initial CONUS duty station. The travel authorization for the relocation from Hawaii authorized real estate expenses. In August 2013, the claimant sold the residence at the initial CONUS duty station. The claimant seeks to be reimbursed for real estate transaction expenses incurred in connection with the sale. The agency denied the claim as time barred, because it occurred after more than two years had elapsed from the initial relocation. The claimant seeks review of that determination, asserting that regulation permits the relief.

The claimant bears the burden of proof. The applicable regulations are those in effect when the employee reports for duty at the new official station. 41 CFR 302-2.3 (2008)

(Federal Travel Regulation (FTR) 302-2.3). Regulation defined “non-foreign area” to include Hawaii. FTR 300-3.1. The claimant seeks relief under provision C5692-E.2 of the Joint Travel Regulations (JTR). The applicable 2008 regulations contain the same language as that referenced by the claimant. In each instance, the provision is found under a part dealing with real estate transaction expense allowances:

D. Transfer from a Foreign PDS [permanent duty station] to a CONUS/Non-foreign OCONUS [outside CONUS] PDS

....

5. Applicability. An employee who has completed an agreed upon tour of duty at a foreign PDS and is reassigned/transferred to a different CONUS/non-foreign OCONUS PDS (other than the one from which transferred when assigned to the foreign PDS) is authorized reimbursement under this Part.

JTR C5750-D.2. For each aspect of the authorized relocation, the provision is not applicable to the claimant’s situation. The claimant was not at a foreign PDS.

Regulations dictated that, to be compensated for allowable costs, the settlement date for the sale must occur not later than two years after the day of reporting to the new duty station; the time period could be extended for up to two additional years. FTR 302-11.21, .22; JTR C5750-C (which specifies there is no authority to waive the four-year time limitation under any circumstances). The settlement date occurred after two years (as well as after four years, although no extension has been identified). Thus, relief is not allowed.

For the most recent relocation, the claimant sold a house that was not the residence for relocation purposes, because it was not that from which the claimant commuted while at the United States duty station in Hawaii.

The agency correctly concluded that reimbursement was not permitted. *John J. Cody*, GSBCA 13701-RELO, 97-1 BCA ¶ 28,694 (1996).

JOSEPH A. VERGILIO
Board Judge