



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 30, 2017

CBCA 5519-RELO

In the Matter of BRADLEY S. JONES

Bradley S. Jones, Port Saint Joe, FL, Claimant.

Laura A. Merritt, Civilian PCS Program Administration Specialist, Headquarters Air Force Personnel Center, Department of the Air Force, Randolph Air Force Base, TX, appearing for Department of the Air Force.

HYATT, Board Judge.

Claimant, Bradley S. Jones, seeks the Board's review of the Air Force's decision to deny his request for a one-year extension of the time to claim real estate transaction expenses in connection with a permanent change of station from Jacksonville, Florida, to Tyndall Air Force Base near Panama City, Florida. Because Mr. Jones has provided a different justification to support his claim at the Board, we return the matter to the Air Force for further consideration.

Background

Mr. Jones reported to his new permanent duty station on August 14, 2014. His permanent change of station (PCS) orders authorized reimbursement of real estate transaction expenses incurred in connection with the transfer. The orders provided that all real estate transactions must be completed within one year of the reporting date to the new duty station. On July 24, 2015, Mr. Jones formally requested a one-year extension of time to complete the purchase of a home at the new duty station and receive reimbursement of eligible expenses. He stated that he needed to delay the purchase of a new home until his spouse found a job and her commute could be considered, and added that he needed additional time to decide whether to buy an existing home or have a new home built. The Air Force declined to grant an extension, explaining that the considerations described by claimant did not amount to the type of extenuating circumstances related to the PCS contemplated by the applicable

regulations under which additional time may be granted for completion of real estate transactions.

In the claim submitted to the Board, Mr. Jones acknowledged that he may not have effectively presented the full set of circumstances that prompted his request for the extension of time. Mr. Jones clarified that the principal factor affecting his ability to purchase a home at the new location within the one-year time frame was financial hardship attributable to his wife's inability to find appropriate employment in the area, owing to the specialized nature of her job qualifications. Although they commenced their house hunt immediately upon moving to the area, the Jones's soon realized that they could not afford either to buy or build a home in a safe area on one salary. It took ten months for claimant's spouse to obtain a new job. Once this occurred, they were able to find a home, qualify for financing, and complete the purchase. It was not possible, however, to complete the purchase prior to the expiration of the one-year deadline.

In response to the claim, the Air Force pointed out that the information pertaining to financial hardship was offered for the first time in claimant's submission to the Board. The agency maintained that it properly denied the request because the reasons provided by Mr. Jones did not constitute the type of extenuating circumstances for which an extension may be approved. The Air Force agreed that financial hardship attributable to the PCS may be considered to be an extenuating circumstance operating to prevent the completion of the purchase of a new home within the one-year period permitted by regulation, but noted that Mr. Jones did not provide any supporting information to back up this contention.

Mr. Jones, replying to the agency's response, submitted additional documentation in support of his claim that financial hardship, notably the high cost of living in the locale and the necessity of two incomes in order to afford to buy a new residence, was the primary factor hindering the completion of a home purchase within the one-year period from his reporting date. He asks the Board to review this information and decide whether the time limitation should be extended so that his request "does not remain on hold."

Discussion

The Federal Travel Regulation (FTR) in effect at the time of Mr. Jones' transfer, 41 CFR 302-2.8 (2014), with exceptions not applicable here, provided that all aspects of a relocation be completed within one year from the effective date of the employee's transfer. The one-year limitation may be extended by the agency for up to an additional year for reasons that are beyond the control of the employee and are acceptable to the agency. 41 CFR 302-2.11, -11.22. The FTR further provided that in considering a request for an extension of the time limitation the agency should determine that the:

(a) Employee has extenuating circumstances which have prevented him/her from completing his/her sale and purchase or lease termination transactions in the initial authorized time frame of one year; and

(b) Employee's residence transactions are reasonably related to his/her transfer of official station.

41 CFR 302-11.421. The Joint Travel Regulations (JTR), applicable to employees of the Defense Department, contained a similar provision. JTR C5692 (June 1, 2014); *Susan G. Hashemi*, CBCA 5186-RELO (May 16, 2016).

The Air Force contends that, since it properly concluded that the information provided by Mr. Jones in his initial request for the extension of time did not present extenuating circumstances that would justify the extension, the Board should deny the claim. In the alternative, it also recognizes that Mr. Jones' claim of financial hardship, if properly documented, might justify an extension of the deadline, but suggests that if the Board does not deny the claim it should, as it did in *Hashemi*, afford the agency the opportunity to consider this information in the first instance.

In a similar case, in which the employee also had not presented extenuating circumstances that might support an extension of time to complete a residence transaction until his claim was at the board, the General Services Board of Contract Appeals (GSBCA), our predecessor in considering travel and relocation expenses claims of federal civilian employees, observed this should not preclude a subsequent consideration of the newly presented circumstance:

The objective of the Board in deciding federal employee travel and relocation claims is to do justice, within the confines of statute and regulation. The objective of agencies in considering these claims should be the same. The reason [the employee] now cites could well be deemed an extenuating circumstance which prevented him from completing the sale within the initial . . . period [permitted under the regulations].

Peter J. Grace, GSBCA 16790-RELO, 06-1 BCA ¶ 33,219, at 164,636.

At the same time, we cannot accommodate claimant's request that the Board resolve this matter based on the information he has now provided. As we stated above, the decision whether to grant a request for an extension of time to complete transactions under PCS orders is entrusted, under the applicable regulations, to the agency's reasonable exercise of discretion. It is the Air Force's prerogative and responsibility to review the additional

information and supporting documentation proffered by Mr. Jones to determine if the request now meets the standard provided in the applicable regulations. Accordingly, the appropriate action is to remand this matter to the Air Force. *See Magdy M. Sorial*, CBCA 4997-RELO, 16-1 BCA ¶ 36,395; *Hashemi*; *Grace*. If the agency finds that straitened financial circumstances affected claimant's ability to complete the purchase of a home within the one-year period, it may grant the extension.

Decision

The claim is returned to the agency for a re-evaluation of Mr. Jones' request for an extension in light of the additional information submitted by claimant.

CATHERINE B. HYATT
Board Judge