



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 26, 2018

CBCA 5982-RELO

In the Matter of JENNIFER A. MILLER

Jennifer A. Miller, Falls Church, VA, Claimant.

Eugene R. Ingrao, Sr., Office of the Chief Counsel, National Guard Bureau, Department of Defense, Arlington, VA, appearing for Department of Defense.

KULLBERG, Board Judge.

Claimant, Jennifer A. Miller, seeks reimbursement of the \$300 move-in fee that she paid to her condominium homeowner's association (CHOA) after relocating to her new permanent duty station (PDS). The agency, the National Guard Bureau (NGB), contends that the move-in fee is not a reimbursable expense related to Ms. Miller's purchase of a condominium at her new PDS. For the reasons stated below, the claim is denied.

Background

Ms. Miller, an NGB employee, purchased a condominium after relocating to her current PDS, and on or about July 21, 2017, she paid a move-in fee in the amount of \$300 that was charged by the CHOA. Payment of the move-in fee was required by the CHOA for each change of occupancy. The \$300 move-in fee did not appear on the settlement sheet for the purchase of Ms. Miller's condominium, and she paid that amount separately.

After requesting reimbursement of the CHOA move-in fee, the NGB informed Ms. Miller in an email dated December 5, 2017, that the fee was not reimbursable. Subsequently, Ms. Miller filed her claim for the move-in fee with the Board.

In its agency report the NGB contended that the CHOA move-in fee was a personal expense. In response, Ms. Miller explained that the CHOA move-in fee was “an unavoidable and required service move-in fee customarily paid by the purchaser of the residence at my new official station.” Additionally, she contended the following:

The [CHOA move-in fee] was not a membership fee or participation fee. The fee may be charged multiple times based on changes in occupancy (i.e. renting, moving in additional occupants, etc.)[.] The [CHOA move-in fee] is an expense or charge for services required to fulfill my lender’s terms and conditions of owner-occupancy similar to the [CHOA transfer fee] listed on the settlement statement and reimbursed by the Agency.

Discussion

The issue in this matter is whether Ms. Miller is entitled to reimbursement of the CHOA move-in fee. Statute provides that “[a]n agency shall pay to or on behalf of an employee who transfers in the interest of the Government, expenses of the . . . purchase of a residence at the new official station that are required to be paid by the employee.” 5 U.S.C. § 5724a(d)(1) (2012). Both the Federal Travel Regulation (FTR) and the Joint Travel Regulations (JTR), which apply to Ms. Miller, provide, generally, for the reimbursement of real estate transaction expenses that are customarily paid by the purchaser at his or her new PDS. 41 CFR 302-11.200 (2017) (FTR 302-11.200); JTR 5912-A.4.a. Those regulations, however, do not provide for reimbursement of either “operating or maintenance costs.” FTR 302-11.202(f); JTR 5912-A.4.b(4).

The above-referenced statute and regulations also apply to the payment of fees to a homeowner’s association such as the CHOA in this case. The General Services Board of Contract Appeals (GSBCA), which decided relocation cases before the establishment of this Board, recognized the following:

[F]ees charged by cooperative associations in conjunction with the transfer of residences come in many shapes and sizes. In *Ronald R. Chronister*, B-177947 (June 7, 1973), some such fees were held to be reimbursable by the Government and others were not. In the former category were fees for real estate brokerage and for preparing documents required for the transfer of ownership. In the latter category were fees for supervising necessary repairs and for redecorating, and payments on a mortgage, insurance policy, utilities, and maintenance items.

Richard J. Brenner, GSBCA 15309-RELO, 00-2 BCA ¶ 31,014, at 153,186. This Board has recognized that a fee charged by a homeowner's association is only reimbursable if the record shows that payment of that fee was necessary to effect the transfer of ownership of the employee's residence, and reimbursement will be denied where such fees are only related to the operation or maintenance of the property of which that residence is a part. See *Barbara A. Maloney*, CBCA 2023-RELO, 10-2 BCA ¶ 34,593, at 170,523; *Andreas Frank*, CBCA 557-RELO, 07-1 BCA ¶ 33,531, at 166,115.

Ms. Miller has represented that payment of the CHOA move-in fee was mandatory, but she has not shown how payment of that fee was required to effect the transfer of ownership of her condominium. In her response to the agency report, Ms. Miller has represented that the CHOA move-in fee was paid not only in the case of a purchase of a condominium, but also in the event of a change of occupancy or the lease of the condominium. The CHOA move-in fee was not even listed as an expense in the settlement for the purchase of the condominium and was paid separately. At most, Ms. Miller has only shown that the CHOA move-in fee was mandatory for the purpose of occupying her condominium, but she has not shown that it served any purpose for transferring ownership. Under those circumstances, the Board concludes that the CHOA move-in fee was related to either the maintenance or operation of the property in which the condominium was located, and, for that reason, is not reimbursable.

Decision

The claim is denied.

H. CHUCK KULLBERG
Board Judge