



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 13, 2023

CBCA 7518-RELO

In the Matter of MICHAEL H.

Michael H., Claimant.

Heather Sabow, Debt Management Team Lead, Travel Pay Processing, Air Force Installation and Mission Support Center, Department of the Air Force, Ellsworth Air Force Base, SD, appearing for Department of the Air Force.

O'ROURKE, Board Judge.

On September 21, 2022, claimant asked the Board to review the agency's denial of certain relocation allowances as discretionary. We dismiss this claim as moot since the agency subsequently granted the relief to which claimant was entitled.

Pursuant to official travel orders, claimant transferred from Royal Air Force, Lakenheath, in the United Kingdom, to Kirtland Air Force Base, in Albuquerque, New Mexico, in December 2021. Claimant's travel orders entitled him to the shipment of household goods (HHG)—a benefit that became subject to federal income tax withholding (FITW) under the Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, 131 Stat. 2054. The agency calculated the FITW amount at \$11,066.54 and began debt collection procedures against claimant for that amount. Claimant disputed the action, contending that the withholding tax allowance (WTA) and the relocation income tax allowance (RITA), both of which he was eligible to receive, offset the FITW and that the agency was required to pay them. The agency disagreed, citing those allowances as discretionary. Claimant sought review of the agency's decision from the Board, stating that the regulations *require* the agency to pay these allowances, and they are not discretionary.

Claimant asked the Board to grant his claim for WTA and RITA. He also asked the Board to “enjoin the Air Force from any further denial of WTA and require the Air Force to comply with all provisions of 41 CFR 302-17 [(2021)] for all civilian personnel on official travel.”

Realizing its error, the agency notified claimant on October 27, 2021, that it would cancel the travel debt it issued and apply WTA to the FITW due on the cost of shipping claimant’s HHG. The agency then issued a new, substantially smaller travel debt for the payroll taxes due on the cost of shipment of HHG and the WTA amount paid. Claimant concurred that the agency’s revised travel debt was appropriate under 41 CFR 302-17.

Since the agency’s actions satisfied the claim, there is no longer a claim in dispute and, therefore, nothing for the Board to decide. “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,” as we have no basis to proceed with the matter. *Lawrence G. Cain*, CBCA 6205-TRAV, 18-1 BCA ¶ 37,167, at 180,933 (citing *Ruth C. Rodriguez*, CBCA 5152-RELO, 16-1 BCA ¶ 36,276, at 176,929-30).

Claimant’s additional request that the Board “enjoin the Air Force from any further denial of WTA and require the Air Force to comply with all provisions of 41 CFR 302-17 for all civilian personnel on official travel” is beyond the Board’s jurisdiction. Our authority to settle claims is limited to “claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official station.” *Jermaine W. DeWitt*, CBCA 5399-RELO, 16-2 BCA ¶ 36,537, at 177,995 (quoting *Antonio K. Hubbard*, CBCA 3066-RELO, 13 BCA ¶ 35,356, at 173,534). “Chapter 3702 of title 31 vests the authority to resolve these claims in the Administrator of General Services, who has delegated that function to the Civilian Board of Contract Appeals.” *Orlando Boas Lobelo*, CBCA 4901-TRAV, 16-1 BCA ¶ 36,193, at 176,576; see 48 CFR 6104.401(a) (2021). “Both statute and the delegation of authority . . . require that a claim be monetary—that is, that a claim be one for ‘expenses incurred’ by the employee.” *John R. Durant*, GSBCA 15726-TRAV, 02-1 ¶ 31,827, at 157,260. “We will not address matters of purely hypothetical or academic interest.” *Id.* (citing *William R. Thygerson*, GSBCA 15244-RELO, 01-1 BCA ¶ 31,283, at 154,477 (After the agency paid the claim, the Board dismissed the claim as moot over claimant’s objection that “unless a definitive decision [by this Board] is published, [the Army] will continue to deny overseas employees a valuable and useful entitlement.”)). Since claimant’s request does not involve a claim for money, we cannot consider it.

Decision

We dismiss the claim as moot.

Kathleen J. O'Rourke
KATHLEEN J. O'ROURKE
Board Judge