



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 13, 2023

CBCA 7442-RELO

In the Matter of MINH N.

Minh N., Claimant.

Sarah G. Fishel, Office of Chief Counsel, Drug Enforcement Administration, Department of Justice, Springfield, VA, appearing for Department of Justice.

ZISCHKAU, Board Judge.

The Drug Enforcement Administration (DEA) seeks reconsideration of our decision granting claimant the reimbursement of costs incurred in purchasing a home in the Washington, D.C., metropolitan area. We determined that a DEA career board transfer decision found in a February 2022 DEA cable expressed an administrative intent to transfer claimant prior to claimant entering into a real estate purchase agreement. DEA argues on reconsideration that the cable had a prominent disclaimer warning employees not to enter into real estate contracts until after issuance of the transfer control number (TCN). Further, DEA argues that the cable was ambiguous in identifying the DEA “headquarters” to which claimant was being transferred.

DEA points to the following disclaimer in the career board transfer and promotions cable: “EMPLOYEES ARE REMINDED TO NOT SIGN A LISTING AGREEMENT REGARDING THE SALE OF THEIR RESIDENCE AND/OR SIGN A CONTRACT FOR PURCHASE OF RESIDENCE UNTIL AFTER TCN ISSUANCE. EMPLOYEES ARE ALSO REMINDED THAT NO EXPENSES MAY BE INCURRED UNTIL RECEIPT OF OFFICIAL TRAVEL ORDERS.” Our cases have made clear that travel orders are not the sole indication of the agency’s intent, and reimbursement will be provided, so long as “a definite selection for the position has been made and all parties concerned had good reason to expect the transfer would be approved and effectuated.” *Jorge L. Gonzalez*, CBCA 984-

RELO, 08-2 BCA ¶ 34,004, at 168,162. Disclaimers such as the one in the DEA cable are premised on using travel orders “as the marker [to] alleviate the agency’s need to perform further inquiry to determine whether its intent to transfer an individual employee could be established through other means.” *Jason A. Johnson*, CBCA 2608-RELO, 12-1 BCA ¶ 34,914, at 171,664. Here, the cable provided a clear notice of a transfer decision by the career board. Although the agency says claimant should have waited until receiving the TCN before signing the sales contract, the actual TCN notice claimant received contains the same sort of disclaimer found in the cable: “Employee is reminded that no expenses may be incurred until receipt of official travel orders.” For the reasons stated above, this administrative convenience disclaimer does not contradict our finding of administrative intent where the career board made a definite selection such that all parties had good reason to believe that the transfer would be effectuated.

The agency next argues on reconsideration that the location of the transfer was not specific to justify a conclusion that the claimant was being transferred to the metropolitan Washington, D.C., headquarters. While the agency agrees that DEA’s primary headquarters is in Arlington, Virginia, and that the claimant’s home is within commuting distance of DEA headquarters, the agency argues that the term “Headquarters” encompasses more than the primary headquarters and could include locations such as Los Angeles, Texas, and New York. We have reviewed the exhibits furnished in the reconsideration request and the original claim, comparing the “HQS” references with the “Headquarters” references, and find no error in our conclusion that the DEA career board cable’s listing of “Headquarters” reasonably referred to the DEA primary headquarters in metropolitan Washington, D.C. Our interpretation of the cable is confirmed by the subsequent TCN and travel orders.

The agency’s motion for reconsideration is denied.

Jonathan D. Zischkau
JONATHAN D. ZISCHKAU
Board Judge