



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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November 21, 2024

CBCA 8073-RELO

In the Matter of SHARON R.

Sharon R., Claimant.

Matthew H. McCoy and Kelley Thomas, Office of Counsel, United States Army Corps of Engineers, Millington, TN, counsel for Department of the Army.

**KULLBERG**, Board Judge.

Claimant brings this matter seeking the Board's review of her entitlement to real estate expenses in connection with her relocation to a new permanent duty station (PDS). The agency, the United States Army Corps of Engineers (USACE), contends that this matter is premature because claimant has not submitted a claim to the agency for relocation expenses and this Board, accordingly, lacks authority to hear this matter. For the reasons stated below, the Board dismisses this matter.

Background

During the period from 2022 to 2024, USACE issued three successive management directed reassignments (MDRs) to claimant. The first MDR was a permanent change of station (PCS) to Florida, with a reporting date of July 5, 2022, the second MDR was a PCS to Puerto Rico, with a reporting date on December 14, 2022, and the third MDR was a PCS back to Florida, with a reporting date on May 27, 2024. All three of the PCS orders issued to claimant indicated that real estate expenses were authorized. In a series of emails from April 5 to 10, 2024, claimant asked about her entitlement to real estate expenses for the sale of her home in connection with her first MDR. She was advised by a USACE employee that

such costs were not reimbursable. On April 11, 2024, USACE approved an extension of time for claimant to submit a claim for real estate expenses related to her first MDR.

Claimant submitted this matter to the Board with a request for an evaluation of her entitlement to real estate expenses. USACE filed an initial motion to dismiss this matter, which it repeated in its agency report, on the grounds that claimant had not yet submitted a claim for adjudication by the agency. The agency report also indicated that “assuming that all other [Joint Travel Regulations] are met, there appears to be no reason that real estate allowances would be denied for the sale of her residence.” Claimant filed a response to the agency report in which she reiterated her position, and the agency filed a second reply that restated its previous arguments. Although she was given the opportunity to file an additional reply to the agency, claimant declined to do so.

### Discussion

At issue is whether this matter is properly before the Board as it appears that no claim for real estate expenses has been adjudicated at the agency level. The Board’s rules provide the following:

Any claim for entitlement to travel or relocation expenses must first be filed with the claimant’s own department or agency (the agency). The agency shall initially adjudicate the claim. A claimant disagreeing with the agency’s determination may request review of the claim by the Board. The burden is on the claimant to establish the timeliness of the claim, the liability of the agency, and the claimant’s right to payment. The Board will issue the final decision on a claim based on the information submitted by the claimant and the agency.

48 CFR 6104.401(c) (2023). When a claimant submits a claim to the Board without first submitting it to his or her agency for adjudication, the Board is within its authority to dismiss the case as premature. *See Simeon A. Milton*, CBCA 5565-RELO, 17-1 BCA ¶ 36,753, at 179,126. The only exception to such a result would be a finding that it would be futile for the claimant to seek adjudication of a claim at the agency level. *See Scott E. Beemer*, CBCA 4250-RELO, 15-1 BCA ¶ 35,960, at 175,712.

Claimant did not submit any claim to her agency for adjudication before submitting this matter to the Board. The Board has no information as to the specific relocation costs at issue, and the general information in the record is insufficient to reach any decision. Although claimant has provided copies of emails that suggest that her claim would be denied, the agency report stated the contrary. Consequently, the Board does not find that it would be futile for claimant to pursue this matter at her agency. Furthermore, the Board’s dismissal

of this matter does not prejudice claimant from bringing a proper claim at a later date, if the need arises.

Decision

This matter is dismissed as premature.

*H. Chuck Kullberg*  
H. CHUCK KULLBERG  
Board Judge