



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 8, 2007

CBCA 530-DBT

In the Matter of DANIELLE H [REDACTED]

Danielle H [REDACTED], Petitioner.

James H. Anderson, Office of the Legal Adviser, Department of State, Charleston, SC,
appearing for Department of State.

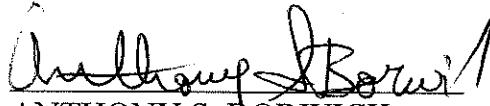
BORWICK, Board Judge.

This matter was referred to the General Services Board of Contract Appeals by the Department of State, agency, because the petitioner had requested a hearing on a proposed collection action by salary offset. With the termination of that Board and the transfer of its cases to the Civilian Board of Contract Appeals, this case came to the latter Board.

The agency's action was initiated for overpayments of the overseas cost of living allowance paid to the petitioner for a period of time after her transfer from Hawaii to the continental United States. The Board had arranged for a hearing, but the hearing was subsequently cancelled upon the oral suggestion by agency counsel that the case might be moot because the petitioner had left the agency's employment without any remaining salary to offset. Agency counsel requested time, which the Board granted, to confirm what he thought to be the case. The Board advised the petitioner in writing of these developments and the petitioner did not object to a short suspension of proceedings.

By letter of January 18, 2007, agency counsel moved to dismiss the request for a hearing as moot. The agency served a copy of the letter on the petitioner. The Board requested that the petitioner show cause, no later than January 31, why the matter should not be dismissed as moot. The petitioner failed to respond.

The agency represented in its letter of January 18 that the petitioner's "final pay was processed" on January 9, 2007, and sent to the petitioner's bank. The agency also stated that there is no final salary to offset through a collection action. The petitioner does not dispute these facts. The agency argues that the salary offset regulations do not apply to offset of a separated employee's final payments. 22 CFR 34.11(c)(1)(2006). The agency is correct, and this matter is dismissed as moot.


ANTHONY S. BORWICK
Board Judge