

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

MOTION FOR RECONSIDERATION DENIED: July 11, 2001

GSBCA 15208

A & B LIMITED PARTNERSHIP,

Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Respondent.

Allen E. Ertel of Allen E. Ertel & Associates, Williamsport, PA, counsel for Appellant.

Ruth Kowarski, Office of General Counsel, General Services Administration, Washington, DC, counsel for Respondent.

Before Board Judges **DANIELS** (Chairman), **BORWICK**, and **GOODMAN**.

GOODMAN, Board Judge.

This Board issued a decision dated June 5, 2001, granting in part respondent's motion for summary relief. On June 7, 2001, appellant filed a timely motion for reconsideration, requesting that the Board reconsider its ruling. As discussed below, the Board denies appellant's motion.

Background

Rule 132 of this Board reads in relevant part:

RECONSIDERATION; AMENDMENT OF DECISIONS; NEW HEARINGS

(a) Grounds. Reconsideration may be granted, a decision or order may be altered or amended, or a new hearing may be granted, for any of the reasons stated in Rule 133(a) and the reasons established by the rules of common law or equity applicable as between private parties in the courts of the United States. Reconsideration, or a new hearing, may be granted on all or any of the issues. Arguments already made and reinterpretations of old evidence are not sufficient grounds for granting reconsideration.

48 CFR 6101.32 (2000).

Rule 133 of this Board reads in relevant part:

RELIEF FROM DECISION OR ORDER

(a) Grounds. The Board may relieve a party from the operation of a final decision or order for any of the following reasons:

- (1) Newly discovered evidence which could not have been earlier discovered, even through due diligence;
- (2) Justifiable or excusable mistake, inadvertence, surprise, or neglect; . . .

48 CFR 6101.33.

Appellant states in its motion for reconsideration:

As I read . . . [the Board's] opinion, . . . [the Board] decide[d] this issue on a legal ground. The legal ground was that there was a clause in the original lease which allowed the Government to alter and change the premises and also retain ownership of anything which becomes a fixture. Unfortunately, this was not argued, nor was it raised by the Government as such. Thus, I did not respond to any arguments concerning this issue, because it had not been raised by the Government.

Appellant's Motion for Reconsideration at 1.

Respondent responds to this assertion as follows:

Contrary to Appellant's assertions, the Government did argue that under the Alteration of Premises clause, GSA was authorized to remove GSA owned and

installed fixtures or additions at any time without obligation to the Lessor. GSA's Motion for Summary Relief, pp. 13-15; See also Government's Uncontested Statement of Fact, No. 4.

Respondent's Response and Opposition to Appellant's Motion for Reconsideration at 2-3.

Respondent is correct; it did make the argument that appellant asserts was not made. In its opinion, the Board noted that respondent had made this argument pursuant to the Alteration clause of the original lease. See A&B Limited Partnership v. General Services Administration, GSBCA 15208, slip op. at 14 (June 5, 2001). Appellant had ample opportunity to assert a response to the argument during the briefing period before the record was closed. Any attempt to assert a response now would be a reinterpretation of old evidence. Appellant has failed to allege sufficient grounds for reconsideration of our previous decision, or sufficient grounds to be relieved from the Board's decision on the motion for summary relief.

Decision

Appellant's motion for reconsideration is **DENIED**.

ALLAN H. GOODMAN
Board Judge

We concur:

STEPHEN M. DANIELS
Board Judge

ANTHONY S. BORWICK
Board Judge