

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

July 20, 2001

GSBCA 15473-RELO

In the Matter of LINDA K. SHAKESPEARE

Linda K. Shakespeare, Albuquerque, NM, Claimant.

Vince Lujan, Director, Division of Human Resources, Department of Health and Human Services, Albuquerque Area Indian Health Service, Albuquerque, NM, appearing for Department of Health and Human Services.

GOODMAN, Board Judge.

Claimant, Linda Shakespeare, is an employee of the Department of Health and Human Services. She has requested that this Board review the agency's decision denying her reimbursement of costs incident to a permanent change of station (PCS).

Factual Background

On December 9, 1998, claimant was employed as an accounting technician for the agency in Aberdeen, South Dakota. She was interviewed by telephone regarding a promotion to a position as a secretary at the Albuquerque Indian Health Center. Claimant states that during the conversation she questioned the person conducting the interview about moving her household goods and her travel options if she were chosen for the position. She was told that this was "negotiable." Claimant emphasized that she would be available to meet the interviewer in person as she would be in Albuquerque during the holidays. At this time claimant was separated from her husband; she was going to visit him in Albuquerque. She left his phone number as the contact number on her application, as this was the only number where she could be reached.

On December 12, 1998, claimant left South Dakota to visit Albuquerque for Christmas, planning to return to South Dakota on January 5, 1999. She applied for and received approval for leave without pay from her position in South Dakota. The purpose of her visit was to bring her children to visit their father, from whom claimant had been separated since August 1998. She states she wanted to transfer to Albuquerque because she had lived there previously and wanted her children to live near their father.

When claimant arrived at her husband's residence on December 16, he told her she had a message to call La Verne Lucero, a personnel staffing specialist at the Albuquerque

Indian Health Center. Claimant says that she called Ms. Lucero and told her that she had just arrived, was visiting for Christmas, and was on leave until January 5, when she was supposed to return to Aberdeen to work.

Ms. Lucero discussed a start date with claimant and asked for an estimated weight of claimant's household goods (HHG), informing claimant that shipment of HHG had been authorized. Claimant informed Ms. Lucero that she wished to start as soon as possible. Claimant states that she could not afford to return to Aberdeen, so she requested an early start date as she was presently on leave without pay. Ms. Lucero called claimant back and told her that she had cleared a release from her then current position in Aberdeen and that her start date for her new position would be December 21, 1998.

Ms. Lucero sent a letter to claimant at claimant's husband's Albuquerque address dated December 18, 1998, which stated:

This is to confirm your selection for position of Secretary . . . with the PHS Indian Hospital, Albuquerque Service Unit, Albuquerque, New Mexico. Your current employer has agreed to a release date of December 19, 1998.

The effective date of your promotion action will be December 20, 1998. Please report for duty on Monday, December 21, 1998.

Travel order[s] for change of station will be issued based on the information you have furnished this office to authorize the payment of the shipment of household goods only.

Claimant began her position in Albuquerque on December 21, 1998. Claimant states that when she reported for her new position, no one discussed travel entitlements with her. Travel orders dated December 22, 1998, were issued for claimant's PCS from Aberdeen, South Dakota, to Albuquerque, New Mexico, which authorized thirty days' temporary storage and transportation of household goods.

Claimant states that she was called out of a training session on January 4 and told to see Ms. Lucero in personnel. She spoke with several people, one of whom filled out her travel voucher, as she was unfamiliar with this procedure. Claimant's Form HHS-106 indicated her immediate family included a husband, son, and three daughters. The form indicated dates of travel as leaving Aberdeen, South Dakota, on December 20, 1996, and arriving in Albuquerque, New Mexico, December 23, 1998. She states that she typed it herself, copying what the other individual had filled out, but did not realize that the dates of travel had been entered incorrectly as December 20-23 when she had actually traveled on December 12-16. Neither she nor her supervisor noticed the incorrect dates, and both claimant and her supervisor signed and submitted the travel voucher.

On January 5, 1999, the travel orders were amended to include sixty days of temporary quarters subsistence expense (TQSE) for claimant and her family, per diem for herself and her family while traveling, miscellaneous expenses, and a relocation income tax allowance. The travel orders indicated: "Dependents: Spouse, Son-15, Daughters -12, 11, 9, Mode of

Travel - 1 privately owned vehicle." On January 6, 1999, the agency authorized and paid to claimant the amount of \$1346.74, which represented mileage and per diem.¹

After submission of the travel voucher and payment of the amount of \$1346.74, agency personnel determined that the dates of travel were incorrect, that claimant could not have been traveling on those dates, and therefore deemed erroneous the payment of the amount of \$1346.74. A bill of collection dated January 8, 1999 was issued to claimant for repayment. On January 19, 1999, claimant requested information from her agency regarding procedures for appealing the bill of collection. As of that date she had not received copies of her original travel orders. On February 2, 1999, claimant submitted a written request for her original travel orders, and on the same day requested a waiver of the bill of collection.

On February 4, 1999, additional travel orders were issued which canceled claimant's previous travel orders. The agency's position is that claimant is not entitled to per diem and mileage because she had already traveled to Albuquerque before she accepted the position, and that the agency correctly demanded repayment of these costs.

¹ Claimant did not submit a request for TQSE.

In her submission to this Board, claimant has acknowledged that she may not be entitled to mileage and per diem, but she continues to assert her entitlement to reimbursement for storage and shipping of her household goods (HHG).

After this case was filed with the Board, the Board made the following inquiry to the agency:

If claimant had filled out her voucher with correct dates of travel, please state what the agency's position would have been as to entitlement to the costs claimed for per diem, mileage, storage and shipment of household goods.

The agency responded:

The Agency's position on the claimant's entitlement to costs claimed for per diem, mileage, storage and shipment of household goods had she filled out her voucher with the correct dates of travel is that the claimant would have no entitlement to reimbursement for costs associated with her per diem or mileage. This is due to the fact that the claimant was not officially notified until December 18, 1998 that she was selected for the position of Secretary. . . . The effective date of the selection was December 20, 1998. By claimant's own admission . . . [she stated] "The dates of travel when I traveled was 12/13/99 and 12/16/99. This part I may not be able to claim, but they [the agency] affirmed me my household goods would be shipped." . . .

Since the claimant was reimbursed for en route travel, mileage and per diem in the amount of \$1346.47, a Bill of Collection was issued to collect this back from the claimant due to the fact that the claimant had already relocated to Albuquerque before being selected for the position and [was] not entitled to reimbursement.

Discussion

The agency is correct with regard to claimant's lack of entitlement to per diem and mileage. Claimant traveled to Albuquerque before she was offered the position of secretary, and is therefore not entitled to be reimbursed for travel expenses incurred before she was offered the position.² 41 CFR 302-1.3(a)-(c) (1998).

However, we see no reason to deny entitlement for shipping and storage of HHG. The agency, when queried by the Board, did not take the position that claimant was not entitled to reimbursement for these costs. The agency's original travel orders dated December 22, 1998, which authorized reimbursement for shipment of HHG and temporary storage, were valid, even if the authorization for mileage and per diem was incorrect.

² We do not discuss or state a position as to claimant's failing to realize that incorrect dates of travel were entered on her travel voucher. The agency has initiated and concluded disciplinary action against claimant. This Board will only address claimant's entitlement to reimbursement for costs arising from her relocation.

Decision

Claimant is entitled to reimbursement for shipment and temporary storage of HHG as originally authorized in the December 22, 1998, travel orders.

ALLAN H. GOODMAN
Board Judge