

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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April 20, 2005

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GSBCA 16543-RELO

In the Matter of DOUGLAS TASTAD

Douglas Tastad, Yorktown, VA, Claimant.

Michael T. Hosang, Office of the Staff Judge Advocate, United States Army Transportation Center, Fort Eustis, VA, appearing for Department of the Army.

NEILL, Board Judge.

In the late summer of 2004, Mr. Douglas Tastad, a civilian employee of the Army, underwent a permanent change of station move from the Washington, D.C., area to Yorktown, Virginia. In connection with the purchase of a residence at his new duty station, Mr. Tastad incurred certain expenses for which the Army has declined to reimburse him. He asks that we review for correctness the Army's refusal to pay his claim for these expenses.

The four expenses in contention in this case are a tax service fee of \$45, a tax set-up fee of \$7, a property inspection waiver fee of \$50, and a courier fee of \$15. We consider each expense in the order presented.

The tax service fee of \$45 and the tax set-up fee of \$7 are both shown on the settlement sheet for the purchase of Mr. Tastad's residence in Yorktown as "Items Payable in Connection with Loan." We have consistently looked upon such fees as paid incident to and as a prerequisite to the extension of credit. As such, each fee is deemed to be a finance charge, as that term is defined in the Truth in Lending Act and by Regulation Z issued by the Federal Reserve Board, 12 CFR 226 (2004). *Daniel H. Coney*, GSBCA 15506-RELO, 01-2 BCA ¶ 31,610. Mr. Tastad, as a civilian employee of the Department of Defense (DOD), is subject to the Department's Joint Travel Regulations (JTR). According to the JTR, DOD does not have the authority to reimburse a fee that is part of the finance charge unless reimbursement is specifically authorized by the regulations. The JTR does not specifically authorize reimbursement for either fee. JTR C14002; *Roxanna E. Zamora*, GSBCA 16562-RELO (Mar. 4, 2005); *Kerry M. Kennedy*, GSBCA 16540-RELO, 05-1 BCA ¶ 32,877; *Larry W. Poole*, GSBCA 15730-RELO, 02-1 BCA ¶ 31,776.

Although aware of the Board's previous decisions upholding denial of reimbursement of finance charges, Mr. Tastad contends that, in his case, reimbursement is still permissible because the settlement sheet shows that the two tax fees in question were not paid to his creditor, but rather, to a tax service company. Mr. Tastad believes that a "finance charge,"

as defined in the Truth in Lending Act and by Regulation Z, is one imposed by the creditor and, therefore, payable only to the creditor as an incident to the extension of credit. We disagree. The term “finance charge,” as defined in Regulation Z, is said to include any charge payable “directly or indirectly” and imposed “directly or indirectly” by the creditor. 12 CFR 226.4(a). Payment of the fee to a tax service company rather than directly to the creditor does not make an otherwise non-reimbursable expense reimbursable. *Terry L. Hood*, GSBCA 16061-RELO, 03-2 BCA ¶ 32,314.

Mr. Tastad’s rationale for reimbursement of the property inspection waiver fee of \$50 is less than convincing. He directs us to JTR C14002-A.4.a(11), which provides that expenses in connection with property inspection fees, when required by law or by a lender, are reimbursable. Mr. Tastad explains that because of his excellent credit worthiness, he was permitted to pay this waiver fee rather than incur the much greater expense of a property appraisal. We find claimant’s reliance on the above-cited JTR provision misplaced. We agree with the agency that the JTR provision cannot be read as applying to an inspection which was never made and which, rather than being required by law or the lender, has, in fact, been waived.

In view of the circumstances relating to Mr. Tastad’s claim of \$15 for a courier’s charges, we are persuaded that he should be reimbursed for this expense. Claimant explains that, at the time of closing on his residence at Yorktown, the sellers of the house had already left the state. The title company presiding over the settlement, therefore, made use of a courier to ensure that documents were signed promptly and by all parties. We have in the past allowed reimbursement of reasonable courier fees when the claimant can demonstrate that use of the courier was prompted by more than mere considerations of personal convenience and when it is clear that the fee was incurred either by claimant or someone working on his or her behalf and not by the creditor. *See Kathy D. Peter*, GSBCA 16114-RELO, 04-1 BCA ¶ 32,424 (2003) (and cases cited therein). We find those requirements have been met here.

### Decision

The agency’s denial of Mr. Tastad’s claims for reimbursement of a tax service fee, a tax set-up fee, and a property inspection waiver fee of \$50 is affirmed. Mr. Tastad’s claim for reimbursement of a courier fee is granted.

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EDWIN B. NEILL  
Board Judge