

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

March 10, 2005

GSBCA 16564-RELO

In the Matter of THOMASINE P. ROSS

Thomasine P. Ross, Albuquerque, NM, Claimant.

Maurice McDonald, Chief, Fiscal Support Branch, PCS Relocation Travel Team, Products and Services, National Business Center, Department of the Interior, Denver, CO, appearing for Department of the Interior.

GOODMAN, Board Judge.

Claimant, Thomasine P. Ross, an employee of the Department of the Interior, has asked this Board to review the agency's denial of reimbursement of various expenses she incurred during her relocation to begin employment as a new appointee.

Background

Claimant was issued travel orders dated January 28, 2003, to relocate from her residence in Oklahoma City, Oklahoma, to her new official duty station in Albuquerque, New Mexico. She was authorized to accomplish en route travel by privately owned vehicle (POV) for herself and two dependents, and was also authorized shipment of household goods (HHG) via the government bill of lading (GBL) method.

In February 2003, claimant drove by POV to and reported for duty in Albuquerque, but her claimed dependents remained in Oklahoma City. She leased a residence (first residence) which she considered to be temporary and accomplished a partial move of her HHG into this residence. She stored the remainder of her HHG in Oklahoma City. In July 2004 claimant moved to another residence in Albuquerque (second residence), which she considered permanent. She rented a truck and moved her HHG from the first residence to second residence. In August 2004 she traveled by air from Albuquerque via Denver to Oklahoma City. Due to inclement weather in Denver she was required to stay in a hotel and resume travel the next day. Upon arrival in Oklahoma City, she rented a truck and brought the remainder of her HHG to the second residence. At that time her claimed dependents traveled by air from Oklahoma City to Albuquerque.

She was reimbursed for various relocation costs and denied payment for her claim for \$1080 for storage of HHG in the first residence. She was also denied reimbursement for the costs of the rental truck for moving HHG from the first residence to the second residence (\$238.64), transportation for a granddaughter from Oklahoma City to Albuquerque (\$282.40), her airfare to return to Oklahoma City (\$100.10), and her hotel for the return to Oklahoma City (\$44.91).

Discussion

Storage of HHG in First Residence

Under the Federal Travel Regulation (FTR), a new appointee may be authorized reimbursement for temporary storage of HHG. 41 CFR 302-7.1(b) (2002) (FAR 302-7.1(b)). Claimant was reimbursed for temporary storage of the HHG which she left in Oklahoma City after moving to Albuquerque. Claimant seeks additional payment for storing the HHG which she moved into her first residence at the new official duty station. The agency maintains that claimant had use of the HHG and therefore did not "store" it. Claimant does not rebut this allegation. She characterizes the presence of her HHG in the first residence as "temporary storage" because she intended to occupy this residence temporarily. She requested payment of \$1080 -- \$60 per month for the eighteen-month period during which she occupied the first residence. She did not incur this cost, but asserts she would have if she had stored the HHG in a storage facility.

Claimant confuses the concept of "temporary storage of HHG" with her placing her HHG in a residence at the new duty station that she considered temporary. Even though claimant intended to occupy the first residence temporarily, it was still her residence.¹ She is not entitled to compensation for storage of HHG located in her own residence, whether she used the HHG or not. Claimant did not incur storage costs for having her HHG at her first residence. The agency properly denied payment of the amount claimed.

Moving HHG from First to Second Residence

FTR 302-7.6(b) authorizes reimbursement of the costs of transporting a new appointee's HHG from the place of actual residence to the new official duty station. Claimant was reimbursed for transportation of her HHG from Oklahoma City to the first residence in Albuquerque. In July 2004 claimant incurred costs of \$238.64 for a rental truck to move her HHG from the first residence to the second residence. As she had previously been reimbursed the costs for transporting her HHG to the new official duty station, she is not entitled to reimbursement of expenses incurred thereafter when moving her HHG to a

¹ The FTR provides that Government employees who are transferred from one duty station to another are entitled to reimbursement for certain expenses if it is necessary to occupy temporary quarters during the transfer. FTR pt. 302.6. The FTR makes no determination as to whether quarters are considered temporary or permanent when occupied by a new appointee reporting for duty at the new duty station, as new appointees are not entitled to reimbursement for temporary quarters expenses. FTR 302-6.5.

second residence at the new official duty station. The agency properly denied reimbursement of the costs of the rental truck.

Transportation for Granddaughter

Claimant was authorized reimbursement for the expenses of her dependents traveling to her new official duty station. The agency denied reimbursement of claimant's expenses for her granddaughter's transportation because claimant could not establish that she was the legal guardian of her granddaughter when she reported for duty in February 2003. The record contains a court order which confirms that claimant became the legal guardian on August 20, 2004.

Statute provides that an agency shall pay from government funds the travel expenses of an employee and the transportation expenses of the employee's immediate family when the employee is transferred in the interest of the Government from one official station or agency to another for permanent duty. 5 U.S.C. § 5724 (2000). It is left, however, to implementing regulations to define precisely who constitutes the employee's "immediate family." The FTR specifies which members of the employee's household at the time he or she reports for duty at the new permanent duty station constitute the employee's immediate family. Among those listed are the employee's spouse and children. The regulation further provides:

The term "children" shall include natural offspring; stepchildren; adopted children; grandchildren, legal minor wards or other dependent children who are under legal guardianship of the employee or employee's spouse; and an unborn child born and moved after the employee's effective date of transfer.

FTR 300-3.1.

Pursuant to this regulation, in order for a grandchild to be deemed a member of the immediate family for purposes of reimbursement of travel expenses, the grandchild must be under the employee's legal guardianship when the employee reports for duty at the new duty station. *Steven Fuller*, GSBCA 16337-RELO, 04-1 BCA ¶ 32,363. As claimant did not establish that her granddaughter was under her legal guardianship at that time, and the record contained evidence to the contrary, the agency properly denied reimbursement of this expense.

Airfare and Hotel Expenses

Claimant's travel orders authorized en route travel from Oklahoma City to Albuquerque by POV. She accomplished this in February 2003 and was reimbursed her expenses. Her travel orders did not authorize additional travel to return to Oklahoma City. The agency properly denied reimbursement of \$100.10 for air travel and \$44.91 for hotel expenses incurred when she returned to Oklahoma City in August 2004.

Decision

The claim is denied.

ALLAN H. GOODMAN
Board Judge