

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

July 20, 2006

GSBCA 16850-RELO

In the Matter of ANNE-MARIE CASELLA

Louise B. Bigott, Aroma Park, IL, appearing for Claimant.

Shawn Pompian, Attorney-Adviser, Office of the Legal Adviser, Department of State, Washington, DC, appearing for Department of State.

DANIELS, Board Judge (Chairman).

Foreign Service Officer Anne-Marie Casella contests the determination of the Department of State that she is obligated to pay the costs of storing her household effects from April 20, 2002, until May 10, 2005. For the reasons explained below, we hold that the department's position is legally justified.

Background

While working at the American Embassy in Kingston, Jamaica, in September 1999, Ms. Casella fell down stairs and injured her back and knee. Although the injuries were painful, Ms. Casella continued to work. She completed her assignment in Jamaica, then transferred to London, United Kingdom, where she worked from December 1999 to February 2001. From March to September 2001, she received French language training in Washington, D.C., preparatory to an assignment to Port-au-Prince, Haiti.

In October 2001, the director of the department's Office of Medical Services determined that because of the continuing severity of Ms. Casella's injuries, she should not

go to Haiti. Instead, he recommended that she file a workers' compensation claim and seek treatment for the injuries.

Ms. Casella remained in Washington until May 11, 2005, when she was finally transferred to Haiti. For the first nineteen months of her stay in the nation's capital, she engaged in physical therapy and rehabilitation at local medical facilities. She was placed on sick and annual leave for the first half of this period and received workers' compensation benefits for the second half. Ms. Casella's health improved to the point at which she was able to work part-time from May 2003 to March 2004 and then to work full-time until the date of her assignment to Haiti.

Throughout her time in Washington, Ms. Casella's household effects were in storage. Some were in State Department facilities in Antwerp, Belgium, and Hagerstown, Maryland. Others were in a contractor's warehouse in Port-au-Prince.

Ms. Casella understandably focused on remedying her physical ailments while she was in Washington and not working. She did not notice that she had not been supplied with a copy of orders regarding her change of duty station. Not until April 2005 did she become aware that orders had been issued in October 2001 transferring her from London to Washington. These orders include the sentence, "Authority for temporary storage at government expense will terminate three months after reporting for duty at station of destination."

The State Department has accepted responsibility for storing Ms. Casella's household effects not only for the first three months she was assigned to Washington, but also for an additional three months. The department has directed Ms. Casella to pay for the remainder of the costs of storing her goods. The employee appealed this determination to the department's Exceptions Committee, asking that all additional storage charges be waived. The committee denied her request.

Discussion

Travel and transportation of Foreign Service employees, including storage of the household effects of those employees, is generally governed by section 901 of the Foreign Service Act of 1980, 22 U.S.C. § 4081 (2000), and the State Department's Foreign Affairs Manual (FAM). 6 FAM 111.2-1(a) (14 FAM 511.2-1(a), exhibit 511.4).¹

¹ We cite first to the version of the FAM which was in effect in October 2001,
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The Foreign Service Act authorizes the department to pay the costs of temporarily storing the household effects of a member of the Service in connection with an assignment to a new post, but only for a limited period of time – three months. This period may be extended “in extraordinary circumstances” for as many as ninety additional days. 22 U.S.C. § 4081(12)(B). The FAM reiterates these provisions. 6 FAM 176.1 (14 FAM 626.1). Storage at the Government’s expense may be available for much longer periods of time, but only if it qualifies as “continuous storage” or “emergency storage.” The FAM defines the circumstances in which the department will pay for these kinds of storage. An assignment to Washington generally does not qualify. *See* 6 FAM 176.2, 177, 178 (14 FAM 626.2, 627, 628). Continuous storage for employees assigned to Washington can be “specifically authorized,” however, “when an authorizing officer determines that it would be in the public interest or more economical.” 6 FAM 171.3(b) (current 14 FAM 621.3(c) contains a similar provision).

Every employee has a permanent duty station at all times (except for the brief period while in transit between posts). The designation of Washington as Ms. Casella’s permanent duty station between the conclusion of her language training and her assignment to Haiti was logical. Although Ms. Casella was not working for much of this period, she was located in Washington – not London, her previous duty station, or Port-au-Prince, which was to be her next duty station, or anywhere else. Because her permanent duty station was Washington, under the rules established in the Foreign Service Act and reiterated in the FAM, the State Department properly determined that it could pay to store her goods for no more than six months and that she is responsible for the remaining cost of the storage. Ms. Casella contends that due to the unusual circumstances of her stay in Washington, an authorizing officer of the department should have implemented a permissible exception to the general rule by determining that continuous storage of her goods at Government expense would be in the public interest. Although such a determination could have been made, it was not made, and Ms. Casella has not persuaded us that an authorizing officer’s failure to make the determination was arbitrary, capricious, or an abuse of discretion. We therefore do not disturb the agency’s implicit conclusion that affording her continuous storage of her goods at Government expense would not have been in the public interest.

The record in this case demonstrates that Ms. Casella is not only long-tenured, but also much-decorated as a State Department employee. We find it entirely understandable that she

¹ (...continued)

when Ms. Casella was officially transferred to Washington, since the version in effect on the date of transfer governs an employee’s relocation benefits. We then cite in parentheses to the version of the FAM which is currently in effect.

focused on repairing her health, rather than on the identity of her duty station or the contents of her orders, during her tenure in Washington. We also credit her statement that because she had been posted abroad for many years, she was not familiar with the department's rules regarding storage of household effects for employees who were assigned to domestic duty stations. These factors have no impact on our decision, however. Employees are charged with knowledge of relevant rules and regulations, and the Board as well as the agency must follow those prescriptions in considering employees' claims. *Johnnie P. Saunders, Jr.*, GSBCA 16791-TRAV, 06-1 BCA ¶ 33,223; *Sylvia H. Shaner*, GSBCA 16594-RELO, 05-2 BCA ¶ 33,004; *Mark D. Gonzales*, GSBCA 14617-RELO, 00-1 BCA ¶ 30,755; *Jacqueline Williams*, GSBCA 15026-RELO, 99-2 BCA ¶ 30,538.

STEPHEN M. DANIELS
Board Judge