

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

July 13, 2005

GSBCA 16589-TRAV

In the Matter of REBECCA B. HARPOLE

Rebecca B. Harpole, APO Area Europe, Claimant.

Gary L. Goshorn, Chief, Employment & Compensation Branch, Civilian Personnel Directorate, United States Army, Europe, and Seventh Army Unit 29351, APO Area Europe, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

Rebecca B. Harpole, a former employee of the United States Government located in the United Kingdom, seeks reimbursement of expenses she might incur in traveling and moving her household goods back to her home of record in the United States. The Department of the Army, the agency for which she most recently worked in the United Kingdom, denied the claim because “there has been no evidence provided to refute the initial Department of Air Force determination that Ms. Harpole was a local overseas hire.” (The Air Force was her initial employer in the United Kingdom.)

Although Ms. Harpole has provided some evidence contrary to the conclusion that she was a local hire, we find that evidence insufficient to persuade us that the Government’s characterization is incorrect. There is no evidence that the Air Force, in a manner consistent with provisions of the Department of Defense’s Joint Travel Regulations (JTR), authorized return travel and transportation for Ms. Harpole as a local overseas hire. We therefore deny the claim.

Background

Ms. Harpole worked for the United States Government for many years. In 1992, while working for the Government in Germany, she married George E. Harpole, another American citizen who was working for the Government there. At the end of the year, Ms. Harpole was transferred to a position in Alabama. At the end of the following year, 1993, Mr. Harpole was transferred to a position with the Defense Logistics Agency in the United Kingdom. His orders provided that if Ms. Harpole wished to join him there, the Government would pay for her travel and transportation because she was his dependent.

Once Mr. Harpole accepted the position in the United Kingdom, Ms. Harpole applied for a job there. She took annual leave in January 1994 to help her husband move to that country. On the day after she returned to Alabama, she was offered a position, which she accepted, with the Air Force in the United Kingdom. She left Alabama and reported for work in the United Kingdom in February 1994. Neither the Standard Form 50, Notification of Personnel Action, which documents the termination of her service with the Army in Alabama, nor the corresponding form which documents the commencement of her service with the Air Force in the United Kingdom mentions travel and transportation benefits.

Mr. Harpole retired due to disability in 1998. Ms. Harpole, who had transferred back to the Army in September 1994, continued to work for the Government until 2004. In June 2004, she resigned her position.

Discussion

By statute, an agency may pay travel and transportation “expenses on the return of an employee from his post of duty outside the continental United States to the place of his actual residence at the time of assignment to duty outside the continental United States.” 5 U.S.C. § 5722(a)(2) (2000). As this statute makes clear, the agency’s obligation to pay for the travel and transportation expenses of an employee returning from service overseas is contingent on the employee’s having been assigned to that duty in the first place. The JTR permit an agency to authorize payment for the return travel and transportation of an employee hired locally, outside the continental United States, only under certain circumstances. JTR C4002-B. We therefore construe the statutory term “assignment” to include the local overseas hire of an employee only if return travel and transportation is specifically authorized for that employee. To be entitled to reimbursement of these expenses, Ms. Harpole must therefore demonstrate that she was either transferred to the United Kingdom or specifically authorized such reimbursement even though she was hired there.

The claimant has attempted to prove the first of these alternatives – that she was transferred to the United Kingdom. On that matter, the record is mixed.

Ms. Harpole points to reports made by two Air Force personnel officers in 2003. Both concluded – one on the basis of extensive investigation – that Ms. Harpole should have been given her own travel orders for her move to the United Kingdom. One personnel officer believed that separate orders were not issued because at the time, Ms. Harpole was not entitled to any benefits in excess of what she received as her husband’s dependent. The other personnel officer thought that Ms. Harpole was not properly advised of the benefits to which she would ultimately be entitled if she had her own orders. Ms. Harpole herself says that she traveled on her husband’s orders solely “to expedite [her] entrance on duty.”

The Army, on the other hand, notes that Ms. Harpole did not object in 1994 to traveling on her husband’s orders, which treated her as a dependent who was effectively a local hire when she began work in the United Kingdom. Additionally, the agency says, although employees should review their personnel records regularly to ensure that those records show entitlements properly, until her husband retired, Ms. Harpole never questioned her status as a local hire. The Army appears to suggest that Ms. Harpole should have been especially attentive to the situation because she herself was a human resources officer. Indeed, the claimant notes that for most of her service in the United Kingdom, overseas benefits and entitlements were “a significant portion of my duties.”

After Mr. Harpole retired, the extent of the couple’s living quarters allowance (LQA) became an issue. The Army determined that the extent of the allowance was limited by Mr. Harpole’s entitlements, not Ms. Harpole’s. Ms. Harpole appealed the agency’s determination to the Office of Personnel Management (OPM), which settles claims of or against the Government that involve federal employees’ compensation and leave. *See* 31 U.S.C. § 3702(a)(2). OPM reviewed essentially the same record we consider today as to the circumstances of Ms. Harpole’s initial employment in the United Kingdom. It noted that the Standard Form 50 which documented the commencement of her position in the United Kingdom “does not contain any remarks that recognize any overseas entitlements due her.” OPM concluded that the agency’s determination was reasonable. “The written record indicates that the claimant was offered, and accepted, a position where LQA was not authorized.” *Rebecca Harpole*, No. 04-0010 (Nov. 18, 2004).

Like OPM, we believe that Ms. Harpole has not provided persuasive evidence that the Government is wrong in characterizing her assumption of her initial job in the United Kingdom as a local hire, in the capacity of dependent, rather than as a transferee. The travel orders issued to her husband clearly identify her as someone traveling as his dependent, and the notifications of personnel action regarding her own first job in the United Kingdom are

consistent with the orders in that they do not provide for any relocation benefits. One would expect that a human resources officer with special expertise in overseas benefits and entitlements would have made sure that if she was really entitled to be treated as a transferee, her personnel file would have been corrected to show that. But Ms. Harpole did not even try to accomplish such a change until several years after she had arrived in the United Kingdom, and she has never provided convincing proof that the change is appropriate. We therefore conclude that Ms. Harpole is entitled to be reimbursed as her husband's dependent, rather than as a Government employee assigned to duty overseas, for travel and transportation expenses she might incur in returning to the United States.

STEPHEN M. DANIELS
Board Judge