



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 23, 2008

CBCA 1131-RELO

In the Matter of JOHN NOBLES

John Nobles, Naples, FL, Claimant.

C. Bruce Sheaffer, Comptroller, Accounting Operations Center, National Park Service, Herndon, VA, appearing for Department of the Interior.

DANIELS, Board Judge (Chairman).

The National Park Service transferred John Nobles to Ochopee, Florida, in May 2006. In conjunction with this transfer, Mr. Nobles and his wife moved to Naples, Florida. A few months later, they purchased a house in Mount Dora, Florida. Naples is approximately thirty-six miles from Ochopee, and Mount Dora is approximately 227 miles from Ochopee.

Mr. Nobles asked the Park Service to reimburse him for the transaction costs he incurred in buying the house in Mount Dora. The agency refused, maintaining that reimbursement is impermissible because the employee does not regularly commute from the Mount Dora house to his duty station in Ochopee. Mr. Nobles challenges the agency's determination; he contends that a transferred employee is entitled to be reimbursed for transaction costs incurred in purchasing a residence, regardless of where that residence may be.

The agency's reading of the law is correct, and the employee's is not. By statute, when an agency transfers an employee in the interest of the Government from one permanent duty station within the United States to another, the agency "shall pay to or on behalf of [the] employee . . . expenses of the . . . purchase of a residence *at the new official station* that are required to be paid by the employee." 5 U.S.C. § 5724a(d)(1) (2000) (emphasis added). The Federal Travel Regulation, which implements this statute, similarly states that the purpose

of an allowance for expenses incurred in connection with the purchase of a residence “is to reimburse [a transferred employee] for expenses that [the employee incurs] due to . . . the purchase of a residence *at [the employee’s] new official duty station.*” 41 CFR 302-11.1(a) (2005) (emphasis added).

The General Services Board of Contract Appeals, our predecessor in settling claims by federal civilian employees for relocation expenses, repeatedly held that a residence is “at the new official station” only if it is the one from which the employee regularly commutes to and from work on a daily basis. *Wendy J. Hankins*, GSBCA 16324-RELO, 04-2 BCA ¶ 32,686; *Vincent P. Mokrzycki*, GSBCA 16142-RELO, 04-1 BCA ¶ 32,468 (2003); *Richard H. Mogford*, GSBCA 15958-RELO, 03-2 BCA ¶ 32,348; *Claude N. Narramore*, GSBCA 15445-RELO, 01-2 BCA ¶ 31,562; *Elmer L. Grafford*, GSBCA 14176-RELO, 98-1 BCA ¶ 29,700; *David M. Whetsell*, GSBCA 14089-RELO, 98-1 BCA ¶ 29,610. In so holding, the General Services Board was continuing the practice of the General Accounting Office, which previously settled such claims. See *Jesse Jackson, Jr.*, B-251559 (Mar. 31, 1993); *Johnny W. Reising*, B-238086 (June 8, 1990). We follow that practice here.

The determinations of our predecessors were faithful to the purpose of the statute, which is “to help pay the [employee’s] cost of moving to the new place of employment.” The statute is designed to authorize payment of expenses “incident to transfer from the old to the new station” so that “employees will not have to incur financial losses when transferred at the request of the Government.” S. Rep. No. 1357, 89th Cong., 2nd Sess. 2-4 (1966), reprinted in 1966 U.S.C.C.A.N. 2565-67 (as cited in *Hankins* and *Albert R. Wilcox*, GSBCA 15776-RELO, 02-2 BCA ¶ 31,864). The statute is not designed to facilitate the purchase of vacation homes and residential real estate investment properties by transferred employees -- the result which would obtain if Mr. Nobles’ reading of the law were correct.

The residence Mr. Nobles purchased in Mount Dora is not at the employee’s new official duty station -- it is not the residence from which he regularly commutes on a daily basis to and from Ochopee. The Park Service therefore decided correctly not to reimburse him for the transaction costs he incurred in purchasing that house.

STEPHEN M. DANIELS
Board Judge