



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 21, 2007

CBCA 481-RELO

In the Matter of ETHELYN AND JERROLD HUBBARD

Ethelyn and Jerrold Hubbard, Fort Huachuca, AZ, Claimants.

James M. Heaton, Civilian Personnel Advisory Center Heidelberg, Civilian Human Resources Agency, Department of the Army, APO Area Europe, appearing for Department of the Army.

GOODMAN, Board Judge.

Claimants, Ethelyn and Jerrold Hubbard, are employees of the Department of the Army. They asked for a review of the agency's refusal to (1) amend or rescind and reissue travel orders previously issued to Mrs. Hubbard for travel from outside the continental United States (OCONUS) to the continental United States (CONUS) and (2) issue travel orders to Mr. Hubbard.¹

¹ This case was docketed at the General Services Administration Board of Contract Appeals (GSBCA) on August 9, 2006, as GSBCA 16958-RELO. On January 6, 2007, pursuant to section 847 of the National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, the GSBCA was terminated and its cases, personnel, and other resources were transferred to the newly-established Civilian Board of Contract Appeals (CBCA). This case was docketed by the CBCA as CBCA 481-RELO. The holdings of the GSBCA and other predecessor boards of the CBCA are binding on this Board. *Business Management Research Associates, Inc. v. General Services Administration*, CBCA 464, 07-1 BCA ¶ 33,486.

Factual Background

Claimants are a married couple. They were previously employed in Germany. They both had independent transportation agreements authorizing their return transportation from Germany to the United States. In early 2006 Ethelyn Hubbard accepted a position with the Army in Arizona. She states that she requested guidance and advice to obtain permanent change of station (PCS) orders and that her husband needed to accompany her during her relocation travel, as her mobility is impaired.

Claimants contend that they received incomplete and erroneous advice from the agency with regard to procedures and entitlements to reimbursement of expenses arising from their transportation to CONUS. The agency denies these allegations, stating that when Mrs. Hubbard accepted a position in Arizona, the agency's human resources staff specifically cautioned that her husband should not be included on her travel and PCS orders. The agency maintains that claimants were given specific instructions as to how they could preserve both PCS travel and household goods shipping entitlement for both. By email message dated February 15, 2006, Mr. Hubbard was advised by the agency that if he were listed on his wife's travel orders and traveled at government expense to CONUS, he would not be entitled to any further transportation entitlements, even if he returned to OCONUS. The sender of the email message concluded that "I am concerned that you are not realizing the ramifications of the choice you and your wife have made."

The agency additionally asserts that Mrs. Hubbard was not refused assistance when she inquired about special travel arrangements, an upgrade to business class, and an attendant to accompany her due to her recent surgery and prolonged disability. Mrs. Hubbard was advised of the steps involved in the process, she was provided a copy of the Army policy governing such requests, and she elected not to pursue it. Mrs. Hubbard's email message dated January 26, 2006, notified the agency that she "did not have time to wait on the paperwork. I already booked two aisle seats for Jerrold and me."

On February 18, 2006, Mrs. Hubbard traveled to Arizona from Germany with her husband accompanying her as a dependent, as noted on her travel orders. Mr. Hubbard was on leave during the travel period and remained in Arizona on leave without pay. He did not return to Germany, but was offered and accepted federal employment in Arizona without a break in service.²

² There is no evidence in the record of this case that his change of position was a relocation in the interest of the Government. Claimants state "that Mr. Hubbard remained in Arizona on leave then on leave without pay to support Mrs. Hubbard who is mobility

After claimants traveled to Arizona, they requested that the agency retroactively amend Mrs. Hubbard's travel orders by deleting Mr. Hubbard as a dependent and that separate travel orders be issued to both so that they could each receive additional travel entitlements. The human resources staff initially advised Mrs. Hubbard that this would not be possible. Mrs. Hubbard then provided information from the Defense Finance and Accounting Service that she had not used her travel orders to claim reimbursement for her husband, and that she would not seek reimbursement for his airline ticket. The agency subsequently determined that claimants did not personally purchase Mr. Hubbard's airline ticket, but instead used Mrs. Hubbard's travel orders to procure a government-funded ticket for him. Accordingly, the agency determined that Mr. Hubbard had performed authorized travel on his wife's travel orders as her dependent, and he could not be issued his own travel orders. The agency then determined that Mrs. Hubbard's travel orders could not be amended, as the orders had been requested by Mrs. Hubbard, were correct when issued, and the travel had been completed.³

The agency states:

Claimants' personal and financial situations are unfortunate. However, their informed and unwavering decision to include Mr. Hubbard on Mrs. Hubbard's orders closed any options for Mr. Hubbard to subsequently exercise a separate transportation entitlement on a separate set of orders. Soon after Claimants' arrival at their new duty station, they tried to retroactively undo the travel orders they specifically requested. . . .

Claimants lost their entitlement to issuance of two individual travel orders by knowingly and voluntarily electing to include Claimant Jerrold Hubbard on Claimant Ethelyn Hubbard's travel orders, and by using those orders for travel and relocation. There is no statutory or regulatory basis that permits modification or revocation of a travel authorization retroactively to create an entitlement under the facts of this case.

handicapped. Mr. Hubbard had continuous GS employment first in Germany in Mannheim and then in the USA in Sierra Vista [Arizona].”

³ The Board inquired as to vouchers submitted for reimbursements by Mrs. Hubbard for travel accomplished. Claimants advised the Board that one voucher had been submitted to the agency but had been confirmed to have been lost. Claimants stated further that no other voucher had been submitted because the agency had advised claimants that this case “could not be processed if the movement/voucher was complete.”

We review the agency's determination that Mrs. Hubbard's orders could not be retroactively amended, and that Mr. Hubbard could not be issued separate travel orders.

Discussion

Under the Federal Travel Regulation (FTR), when two or more members of a household are government employees relocating at the same time, the employees are offered two options: (1) they may elect separate authorizations for the move, in which case neither employee is eligible for allowances as a member of the immediate family, or (2) only one employee will receive the available allowances and the other will be eligible for relocation allowances solely as a member of the immediate family. 41 CFR 302-3.200 (2005). In some circumstances, couples who elect separate authorizations may be reimbursed more fully for the expenses of their moves, even though they are not permitted duplicate reimbursement for the same expenses. *James Davidson*, GSBICA 16727-RELO, 06-1 BCA ¶ 33,221; *Russell Showers*, GSBICA 16608-RELO, 05-2 BCA ¶ 33,051.

Claimants have asked the agency to treat their situation as if they were government employees relocating at the same time. They were not. At the time Mrs. Hubbard received her PCS orders, Mr. Hubbard had not received orders to transfer. Before Mrs. Hubbard accomplished her PCS transfer from OCONUS to CONUS, her husband was advised by the agency that if he traveled on his wife's orders as a dependent, he would lose entitlement to relocation expenses in the event that he was relocated. Despite this advice, Mr. Hubbard traveled on his wife's travel orders listed as a dependent. After completing travel, claimants then asked the agency to amend or rescind and reissue Mrs. Hubbard's travel orders and issue separate orders to Mr. Hubbard as if he had been relocated to a new PCS from OCONUS.

Mr. Hubbard did not return to Germany nor was he issued travel orders for a PCS. He remained in CONUS and accepted employment at his wife's PDS. There is no evidence in the record that Mr. Hubbard was transferred in the interest of the Government. The agency advised claimant that it could not amend or rescind and reissue Mrs. Hubbard's travel orders after her travel was accomplished, nor issue travel orders to Mr. Hubbard to give him entitlements arising from a PCS.

The agency's determination is correct. It is a well-established rule that, once travel has been performed, properly issued travel orders may not be amended to increase or decrease the rights of the employee. *See, e.g., Gracelyn Eulanda James*, GSBICA 16677-RELO, 06-1 BCA ¶ 33,167 (2005). Although orders may be modified to correct obvious errors or omissions of provisions that were clearly intended to be included, *Laurie Fenwood*, GSBICA 16805-RELO, 06-2 BCA ¶ 33,334, no such errors or omissions occurred

here. Claimants were advised of their rights and cautioned not to have Mr. Hubbard travel as a dependent. They elected not to heed this advice. Mrs. Hubbard's travel orders cannot be amended or rescinded nor can travel orders be issued to Mr. Hubbard to give him entitlements to a PCS transfer that did not occur.

Decision

The claim is denied.

ALLAN H. GOODMAN
Board Judge