



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 9, 2008

CBCA 1090-RELO

In the Matter of DAVID EICHAMER

David Eichamer, Medford, OR, Claimant.

Emily E. Parkhurst and James L. Weiner, Office of the Solicitor, Department of the Interior, Washington, DC, appearing for Department of the Interior.

KULLBERG, Board Judge.

Claimant, Mr. David Eichamer, an employee of the Bureau of Land Management (BLM), appeals the denial of his request for a two-year extension of time in which to submit a claim for expenses related to the sale of his home. Mr. Eichamer contends that extenuating circumstances precluded the sale of his home in the two-year period following the relocation of his duty station, and BLM should have granted an extension. For the reasons stated below, the claim is denied.

Background

By letter dated March 29, 2005, Mr. Eichamer was advised by BLM that the location of his duty station in Medford, Oregon (Medford) would be changed to Grants Pass, Oregon (Grants Pass).¹ He was further advised that the effective date of his change of duty station

¹ In a memorandum dated September 4, 2002, the associate state director of BLM's Oregon office determined that the increased commute between Medford and Grants Pass was less than fifty miles, so payment of relocation costs was not mandatory. But, allowing reimbursement of relocation costs was deemed to be in the best interest of the

would be September 26, 2005. Although the letter stated that employees would be allowed two years from the date of that letter, March 29, 2005, to claim relocation costs, BLM allowed employees two years from the effective date of the transfer, September 26, 2005, in which to submit such claims. The letter also instructed Mr. Eichamer to list his home for sale for four months before requesting the use of a relocation services contractor.

In early 2007, Mr. Eichamer requested the forms for his relocation benefits, which he received in May of 2007. He signed an employment agreement and completed the other documents related to his relocation on July 10, 2007. On July 27, 2007, he executed an agreement to list his home with a realtor.

In his letter to BLM's state director dated September 24, 2007, Mr. Eichamer requested an extension until November 30, 2008, in which to claim reimbursement for his relocation expenses. He stated three reasons for his request. First, he had wanted his twin children to stay at the same high school until their graduation in June of 2006. Second, he had not been able to do the work he felt was necessary to ready his home for sale until June of 2007, due to an injury in November of 2006, to his right shoulder, which required surgery in March of 2007. Finally, Mr. Eichamer wanted to be eligible for a program that would allow BLM to purchase his home if it could not be sold after being listed for more than 120 days, and he would not be able to list his home for that length of time without an extension.

Mr. Eichamer's request for an extension was forwarded from BLM's Oregon office to BLM's Washington, D.C. office. On November 9, 2007, Mr. Eichamer was advised that his request for an extension had been denied. Mr. Eichamer requested a reconsideration, which was also denied on November 30, 2007. An electronic mail message from BLM to Mr. Eichamer stated the following in pertinent part:

You were injured in November, 2006, about 14 months after the effective date . . . of the change in your duty station and more than a year and a half after you were notified that your duty station would be changed. You completed the move forms on July 10, 2007, and listed your house on July 27, 2007, less than 2 months before the deadline and more than 28 months after you were notified that your duty station would be changed. Your personal injury is not an extenuating circumstance that warrants an extension to the time frame since the injury would not have prevented you from filing the paperwork and listing your house

Government, and an exception was authorized.

in a more timely manner. I understand that your personal injury prevented you from personally being able to clean and fix your home to offer it for sale. However, other reasonable options to prepare your home would exist, and improvements employees elect to make during the purchase or sale of a home are not considered extenuating circumstances. For these reasons, my decision is that an extension of time is not warranted.

Discussion

The issue in this case is whether BLM properly exercised its discretion in denying Mr. Eichamer's request for an extension. Under the Federal Travel Regulation (FTR), a claim for the sale or purchase of a house in connection with a relocation "must occur not later than 2 years after the day [an employee] report[s] for duty at [his or her] new official station." 41 CFR 302-11.21 (2007) (FTR 302-11.21). An employee's agency may extend that two-year period by an additional two years "for reason beyond [the employee's] control and acceptable to the agency." FTR 302-11.22.

An agency's determination of whether to grant a two-year extension is subject to the following FTR provision:

What must we consider when authorizing an extension of time limitation?

When authorizing an extension of time limitation, you must determine that the:

- (a) Employee has extenuating circumstances which have prevented him/her from completing his/her sale and purchase or lease termination transactions in the initial authorized time frame of two years; and
- (b) Employee's residence transactions are reasonably related to his/her transfer of official station.

FTR 302-11.421. The General Services Administration Board of Contract Appeals (GSBCA), which previously decided employee relocation claims, recognized that determinations by agencies to grant or deny such extensions "are subjective, and because the law grants broad discretion to the agency, we will not disturb any of them unless we find that

a determination is arbitrary, capricious or clearly erroneous.” *Larry E. Olinger*, GSBCA 14566-RELO, 98-2 BCA ¶ 29,877, at 147,931.

BLM reasonably determined that Mr. Eichamer was not precluded by his shoulder injury from filing the necessary forms to list his home for sale. With regard to the physical task of preparing his home for sale, Mr. Eichamer’s inability to do such tasks was not an extenuating circumstance in that reasonable alternatives were available. Mr. Eichamer further indicated in his February 21, 2008, submission to the Board that his wife was also unable to help with such tasks, and he spent \$4000 to get his house ready for sale. Although Mr. Eichamer’s circumstances were difficult, the Board cannot find that such circumstances actually prevented him from listing his home for sale, and his desire to make improvements and repairs to his property before listing his home for sale was a matter of his personal choice. The Board does not find, therefore, that BLM’s determination was arbitrary, capricious, or clearly erroneous.

Mr. Eichamer also contends that selling his home earlier would have disrupted the education of other members of his family. The GSBCA recognized that delaying the sale of home in order to meet the educational needs of one’s family is a matter of personal convenience and not an extenuating circumstances that would justify an extension. *Shashikant D. Naik*, GSBCA 14581-RELO, 99-1 BCA ¶ 30,240. Mr. Eichamer states that he wanted his children to stay at the same school until their graduation in June of 2006, and he did not try to sell his home earlier for that reason. He also claims in his submission dated February 21, 2008, that his wife, who was completing her degree at Southern Oregon University, would have had a longer distance to commute as a result of moving at an earlier date. Although Mr. Eichamer’s desire to accommodate the educational needs of his family was laudable, delaying the sale of his home for that reason was reasonably considered not to be an extenuating circumstance.

Mr. Eichamer argues that any delay on his part in selling his home should not be a basis for denying his request for an extension in that he was never given direction as to when he should have started the process of selling his home. The GSBCA recognized that the reason employees have two years under the FTR to submit their claims for relocation costs is because most employees experience some difficulties in relocating, and “the regulations take into consideration the normal range of difficulties.” *Larry E. Olinger*, 98-2 BCA at 147,931. Although there was no prescribed time at which Mr. Eichamer was required to initiate the listing of his home, his argument is unreasonable in that he was in the best position to assess the time and effort that would be necessary to get his home ready for sale and list it. He was also advised in the letter of notification to list his home for four months. By listing his home on July 30, 2007, Mr. Eichamer did not even have four months to list his home before the end of the two-year period on September 26, 2007.

Finally, Mr. Eichamer suggests that he was not properly advised as to his chances that BLM would grant an extension, and he might have made different choices about the timing of the sale of his home if he had better understood the likely outcome of such a request. It is well established that an employee is not entitled to reimbursement of a claim due a lack of understanding of the applicable travel regulations. *See Jeffrey L. Troy*, GSBCA 16072-RELO, 03-2 BCA ¶ 32,329. While it is unfortunate that Mr. Eichamer may have misjudged whether BLM would grant him an extension, that is not a basis for reversing his agency's determination.

Decision

The claim is denied.

H. CHUCK KULLBERG
Board Judge