



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 21, 2008

CBCA 985-RELO

In the Matter of JAY KRUISE

Jay Kruse, Dickson City, PA, Claimant.

Robert Kowalchik, Claims Officer, Legal Office, Tobyhanna Army Depot, Department of the Army, Tobyhanna, PA, appearing for Department of the Army.

KULLBERG, Board Judge.

Claimant, Jay Kruse, seeks review of the denial of his request to reinstate his entitlement to reimbursement of real estate costs. He was transferred to the Tobyhanna Army Depot (TYAD) in 2007 from an overseas assignment under permanent change of station (PCS) orders that did not authorize reimbursement for real estate expenses. Previously, he was assigned to TYAD in 2003 under PCS orders that did authorize reimbursement for real estate expenses. He contends that his first assignment at TYAD was only fourteen months long because he was assigned overseas at his request, and he did not have the full two-year period during his first assignment to utilize his entitlement for reimbursement of real estate expenses. The legal office at TYAD denied his request in that the allowed period of time to file such a claim had passed. Mr. Kruse seeks review of that decision. We deny the claim.

Background

On May 4, 2003, Mr. Kruse was transferred to TYAD. His PCS orders authorized reimbursement for expenses related to the sale or purchase of real estate. He transferred to the Netherlands at his request under PCS orders dated July 14, 2004, and he then transferred to an assignment in Germany under PCS orders dated May 19, 2005. He returned to TYAD

from his overseas assignment under PCS orders dated August 6, 2007. His PCS orders that returned him to TYAD for his present assignment did not authorize reimbursement for real estate expenses.

After his return to TYAD, Mr. Kruse contacted the legal office, and he asked whether he could still use his entitlement to reimbursement for real estate expenses that was authorized during his first assignment to TYAD. By letter dated November 2, 2007, the TYAD legal office denied his request because he had two years from the effective date of his first assignment at TYAD to submit a claim for reimbursement of real estate expenses, and that period could be extended no more than two years upon written request. He was further advised that even if he had been granted an additional two-year extension, the latest possible date for submission of a claim for real estate expenses could not have been later than May 4, 2007, and no additional extensions of time were authorized.

Discussion

Mr. Kruse argues that his entitlement to reimbursement for real estate costs, which was available during his first assignment at TYAD, should be reinstated because he requested an assignment overseas after fourteen months, so he did not have the full two-year period at TYAD in which to make use of that entitlement. The Joint Travel Regulations (JTR) and the Federal Travel Regulation (FTR), which are both relevant to this case, require that an employee submit his or her claim for real estate expenses related to a permanent change of station within two years from the effective date of the transfer. 49 CFR 302-11.21 (2007) (FTR 302-11.21); JTR C5750-C.1. That two year period can be extended for an additional two years. FTR 302-11.22; JTR C5750-C.4. Neither the employee's agency nor this Board has the authority to allow any longer period of time in which to file a claim for reimbursement of real estate expenses. *See Nannette O. Locke*, GSBCA 15144-RELO, 00-1 BCA ¶ 30,706 (1999); *Thomas W. Schmidt*, GSBCA 14747-RELO, 99-2 BCA ¶ 30,430. The period of time in which Mr. Kruse could have filed such a claim, within four years after May 4, 2003, has passed, and this Board has no authority to allow additional time.

Mr. Kruse contends that he is being penalized for serving the Government because he requested an overseas assignment. While Mr. Kruse's motivation for requesting an overseas assignment may be laudable, the fact remains that he did not use his entitlement within the time allowed. Upon his return to TYAD from his overseas assignment, he was precluded by statute from claiming reimbursement of real estate costs because he was assigned to TYAD when he transferred overseas. 5 U.S.C. § 5724a(d)(2) (2000). His PCS orders for his current assignment at TYAD were consistent with that statutory provision. Consequently, there is no legal basis for allowing Mr. Kruse reimbursement of real estate expenses at TYAD under these circumstances, and this Board cannot apply the law

differently to allow payment for an entitlement that is not authorized. *See Kevin S. Foster*, GSBCA 13639-RELO, 97-1 BCA ¶ 28,688 (1996).

Finally, Mr. Kruse argues that he was not informed of the law applicable to PCS transfers. It is well established that an employee subject to the FTR and JTR is responsible for knowledge of those regulations. *See Jeffrey L. Troy*, GSBCA 16072-RELO, 03-2 BCA ¶ 32,329. An employee's lack of knowledge of the applicable regulations, therefore, will not justify reimbursement for relocation-related expenses that are not authorized. *Id.*

Decision

The claim is denied.

H. CHUCK KULLBERG
Board Judge