



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 15, 2012

CBCA 2841-RELO

In the Matter of ANDREA M. DUFF HINKLE

Andrea M. Duff Hinkle, Purcellville, VA, Claimant.

Camille C. Cooper, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for the Department of the Army.

DRUMMOND, Board Judge.

The Army Corps of Engineers transferred Andrea M. Duff Hinkle to a new duty station in the interest of the Government in March 2011. Following the transfer, Ms. Hinkle purchased a residence near the new duty station. As part of the transaction, the seller agreed to pay a portion of Ms. Hinkle's closing costs – a total of \$5067, which covered the Department of Veterans Affairs (VA) funding fee (\$4725), a tax service fee (\$83), and a portion of the cost of owner's title insurance (\$342). These fees and costs, the agency and the employee agree, are not reimbursable per the Federal Travel Regulation, 41 CFR 302-11.202 (2010).

The agency and the employee agree that the reimbursable expenses incurred by Ms. Hinkle in purchasing her new residence were \$7886.84. However, the agency reimbursed her in the amount of only \$3266.29 – the total charges she paid at settlement less the seller's payment of \$5067. As Ms. Hinkle contends, this was in error.

The total charges Ms. Hinkle paid at settlement are irrelevant to the amount of reimbursement which the agency should provide. They include not only several non-reimbursable charges, but also two credits which were applied to reimbursable charges. One of these credits is a large adjustment to the loan origination fee of one percent of the loan amount, reflecting negative points (a non-reimbursable finance adjustment charge) which Ms. Hinkle's lender provided in exchange for her agreeing to pay a high interest rate. The

other credit is a small adjustment to the appraisal fee; prior to settlement, Ms. Hinkle paid more for the appraisal than the appraisal ultimately cost.

Making a reduction from the total reimbursable expenses was also inappropriate. The parties both call to our attention the decision in *James C. Dalton*, CBCA 896-RELO, 08-1 BCA ¶ 33,743 (2007). In *Dalton*, we held that when a seller pays some of the closing costs a transferred employee incurs in purchasing a residence at his new duty station, his agency should apply the credit to non-reimbursable expenses first and reimburse the employee for all reimbursable expenses incurred, up to the net amount of such closing costs he paid. If the Corps had followed this rule, it would have reimbursed Ms. Hinkle for all of the costs it agrees are reimbursable, since all of the closing costs paid by the seller were non-reimbursable.

We direct the Corps to pay to Ms. Hinkle the sum of \$4620.55 – the reimbursable expenses she incurred (\$7886.84) less the amount it has already paid her (\$3266.29).

JEROME M. DRUMMOND
Board Judge