



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 8, 2008

CBCA 1232-RELO

In the Matter of BURENA SMITH

Burena Smith, Gunpowder, MD, Claimant.

Marion Deutsch, PCS Claims Officer, Real Estate Division, Corps of Engineers, Baltimore, MD, appearing for Department of the Army.

GILMORE, Board Judge.

Claimant, Burena Smith, an employee of the U.S. Army Research Development and Engineering Command, asked the Board to review the denial of her real estate expenses by the claims officer of the U.S. Army Corps of Engineers. The record in this proceeding was closed on September 9, 2008. In reviewing the record for decision, it appeared that the claims officer denied claimant's real estate expenses because she determined that the seller had given a \$10,531.52 credit to the buyer, which covered claimant's \$9069.47 in settlement expenses, and, thus, claimant could not be reimbursed, citing *Marion L. Ladd*, GSBCA 15138-RELO, 00-1 BCA ¶ 30,890. Claimant's total costs due at closing were \$29,297.63.

The Board convened a conference call on October 2, 2008, with the parties to determine whether claimant was seeking expenses in the amount of \$9069.47 or \$14,571.55, and what evidence the claims officer was relying upon for her position that the seller had paid the buyer's settlement expenses. The Board asked the claims officer whether she had read the Board's decisions in *James C. Dalton*, CBCA 896-RELO, 08-1 BCA ¶ 33,743 (2007), and *Neal R. Eckrich*, CBCA 813-RELO, 07-2 BCA ¶ 33,663. The claims officer stated that she was familiar with the *Dalton* case, but not the *Eckrich* case. These cases address how the seller's credit should be applied, where there is no agreement between the seller and the buyer, nor any notation on the settlement statement, that the credit should be applied to a specific category of costs, as is the case here.

In light of the discussion of the claim and relevant board cases, the claims officer agreed to again review claimant's reimbursement claim. Claimant will also make sure she has clearly categorized the amounts she is claiming. The claims officer will review the claim and determine which expenses are reimbursable. If claimant disagrees with the determination, she may file an appeal with this Board at that time.

Decision

The Board remands this claim to the agency for further review.

BERYL S. GILMORE
Board Judge