



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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October 1, 2009

CBCA 1523-RELO

In the Matter of DENNIS CLARKSON

Brad M. Bowman of Melville Johnson, P.C., Atlanta, GA, appearing for Claimant.

Melissa Melchior and Ellen Rothschild, Office of General Counsel, Social Security Administration, Baltimore, MD, appearing for Social Security Administration.

**STERN**, Board Judge.

Background

In 2002 claimant, Dennis Clarkson, an employee of the Social Security Administration (SSA), was transferred from a duty station in the United States to one in Guam. Prior to the transfer, an employee of the SSA assured Mr. Clarkson in writing that upon transfer back to the United States by the SSA, he would be allowed to participate in SSA's relocation program, with home sale assistance, including a guaranteed buyout. In 2008 the SSA transferred claimant from Guam to Indio, California. The SSA offered relocation services to claimant. The SSA had previously entered into a contract with Prudential Relocation to provide relocation services to eligible SSA employees. In preparation for claimant's move to California, the SSA, on February 27, 2008, requested that Prudential provide relocation services to Mr. Clarkson, including home sale and home marketing assistance.

The contract between the SSA and Prudential provided that:

The contractor shall offer to purchase the employee's residence at market value, based on the average of two market value appraisals prepared by qualified independent fee appraisers selected by the employee from a list furnished by the contractor. If the appraisals differ by more than 7-1/2 percent

of the higher [sic], a third appraisal will be completed, and all three appraisals will be averaged to determine the offer.

The contract further stated that the employee being transferred was to select the two appraisers from a list of at least six qualified local appraisers who meet thirteen enumerated qualifications and performance standards. One of these standards was that the appraiser must “have knowledge and experience in using the Employee Relocation Council (ERC) appraisal form and standards.” In addition, under the terms of the agreement with Prudential, the employee was to be permitted to recommend other appraisers. Prudential was to promptly inform an employee if and why an appraiser did not meet the standards.

On March 31, 2008, the SSA issued a travel authorization for claimant to report to his new location in California on April 27, 2008.

Claimant hired two appraisal firms on his own. One company, by report of April 5, 2008, appraised claimant’s property at \$630,000. The second company, by report of August 28, 2008, appraised the property at \$637,800.

In October 2008, Prudential informed the SSA that it was unable to find any qualified local appraisers that met all thirteen agency standards. On October 21, 2008, the SSA canceled the home sales services order to Prudential due to its inability to find qualified appraisers. The record does not reflect that claimant was informed at or about the time of the rejection of his appraisers or the reasons that they were not qualified. The agency now states that the reason for the rejection was that neither appraiser had “knowledge and experience issuing the Employee Relocation Counsel (ERC) appraisal form and standards.” Subsequent to these events, the SSA executed a new contract with Prudential under which it dropped its requirement that the appraisers to be selected be qualified local appraisers. It has offered home sales services to appellant under the terms of its new contract with Prudential.

Claimant contends that the SSA improperly denied him the right to participate in the buyback program regarding the sale of his house in Guam. Claimant notes that under certain provisions in the SSA’s contract with Prudential, qualified appraisers could have been located. He requests that the Board find that the appraisers that he hired were sufficient to determine the value of his residence. Claimant asks the Board to direct the SSA to use the two appraisals that he obtained in 2008 and enforce the buyback program.

Discussion

Here, the SSA authorized use of the home sale program. Under the terms of its contract with Prudential, appraisers had to meet certain requirements. There were no appraisers in the local area of Guam where claimant's property was located that met these requirements. Thus, the home sale program offered to claimant was withdrawn. The program has been offered to claimant again, pursuant to a new contract between the SSA and Prudential, but this does not satisfy claimant because of the diminution in property value subsequent to the withdrawal of the first application. Claimant asks that we order the SSA to provide services under the relocation program at the time the services were denied. Claimant asserts that he was promised these services at the time he was transferred to Guam.

Though the services may have been promised to claimant at the time of his transfer to Guam, we are guided by the statutory and regulatory requirements. While statute mandates the payment of certain relocation expenses by an agency upon transfer of an employee, it does not require that the agency provide relocation services such as the guaranteed buyback program involved in the matter before us. 5 U.S.C. § 5724a (2006); 41 CFR 302-11.200, -12.8. The offer of such services is discretionary with the agency.

The Board has jurisdiction to settle claims filed by federal employees in connection with a relocation to a new duty station. 31 U.S.C. § 3702(a)(3). We do not possess the authority to compel an agency to take an action with regard to a relocation claim, other than to make a monetary payment. *Gisele N. Wentling*, GSBCA 16427-RELO, 2004 WL 2569637 (Nov. 4, 2004); *John V. Duncan*, GSBCA 15230-RELO, 00-2 BCA ¶ 30,950. Since we do not have the authority to grant the relief requested, the claim is denied.

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JAMES L. STERN  
Board Judge