

units, a cart rolled back on her left foot and she pulled herself out from the cart. The Office accepted her claim for left sciatica.² Appellant was terminated during her probationary trial period effective February 14, 2004. She received compensation for temporary total disability.

In 2008 appellant traveled to the State of Washington to interview for the position of clinical nurse with the Department of the Interior, Bureau of Reclamation, Fort Simcoe Job Corps. She accepted a formal offer of employment and advised that she planned to fly to Washington on December 29, 2008 to secure and set up residence. Appellant began work with the new employing establishment on January 20, 2009.

Appellant resigned her position effective January 30, 2009. She cited the lack of formal orientation, the lack of adequate support services from the date she started and the lack of clarification of her duties when her supervisor resigned effective January 30, 2009. "The lack of communication to me of any contingency plan for nurse staffing up until today as well as the generalized statement of expectations for managerial duties and schedule for this position has forced me to resign under duress to the date of January 30, 2009." Appellant stated that she had spent over \$3,000 to relocate from New Jersey without her family. She added: "I find that your administration is not considering the best interest of the new employees for the health services unit."

Appellant's attorney asked the Office to reimburse her for the more than \$9,000 she incurred in expenses to move to Washington. The Office advised that it did not authorize relocation expenses, so appellant could not be reimbursed. It noted that it was appellant's decision to relocate to Washington. Counsel again requested that the Office reimburse all of the moving expenses appellant incurred as a result of her job search on the west coast.

In an August 27, 2009 decision, the Office denied reimbursement of relocation expenses. It explained that it did not authorize relocation expenses when appellant decided to move to Washington.

In a decision dated February 19, 2010, an Office hearing representative affirmed the August 27, 2009 decision. The hearing representative found that the Office did not authorize a job search outside appellant's geographic area, that she obtained an interview in Washington and accepted the job offer on her own initiative, that the Office did not sponsor her job search and that she did not request reimbursement of relocation expenses in advance. The hearing representative noted that it did not assess the job offer for suitability nor, indeed, could the Office have found the offer suitable because the offer provided no information on the physical requirements of the position.

Further, the hearing representative explained that Office procedures required an employee to remain in the position for one year, and the record did not establish that appellant had good cause for resigning the position after only 10 days. The hearing representative stated

² The Office advised that it had also accepted thoracic or lumbosacral neuritis or radiculitis not otherwise specified and displacement of lumbar intervertebral disc without myelopathy. On the prior appeal, the Board found that appellant failed to establish that she injured her left knee on August 22, 2003. Docket No. 07-1338 (issued March 18, 2008).

that appellant might have had legitimate concerns about the position but that the employing establish was endeavoring to address those concerns and had invited her participation in a conference call for that purpose, an invitation she declined.

On appeal, counsel argued that reimbursement is appropriate because the Office rehabilitation counselor was involved and informed every step of the way. He suggested that appellant was forced to resign the job because it was not as described and could not be performed. Counsel argued that Office regulations were created to reward claimants for their diligent efforts to obtain employment outside their geographic areas.

LEGAL PRECEDENT

The Office regulations provide that, if possible, the employer should offer suitable reemployment in the location where the employee currently resides. If this is not practical, the employer may offer suitable reemployment at the employee's former duty station or other location. Where the distance between the location of the offered job and the location where the employee currently resides is at least 50 miles, the Office may pay such relocation expenses as are considered reasonable and necessary if the employee has been terminated from the employing establish employment rolls and would incur relocation expenses by accepting the offered reemployment. It may also pay such relocation expenses when the new employer is other than a federal employer. The Office will notify the employee that relocation expenses are payable if it makes a finding that the job is suitable. To determine whether a relocation expense is reasonable and necessary, it shall use as a guide the federal travel regulations for permanent changes of duty station.³

Office procedures thus provide that an injured employee who relocates to accept a suitable job offer after termination from the employing establish rolls may receive payment or reimbursement of moving expenses from the compensation fund. Relocation expenses are payable only to claimants who are no longer on the employing establish rolls. They are payable whether the claimant still resides in the locale where she last worked and is offered employment in another area, or whether the claimant has moved away from the locale where she was employed and is offered employment in either the original area or a different one.⁴

If the offered job is found suitable, medically and otherwise, the Office may proceed to consider whether relocation expenses may be paid. If the decision is favorable, the letter to the claimant should note that General Services Administration (GSA) regulations require employees whose moving expenses are paid by the Federal Government to remain in federal employment for one year after the move. Should the claimant cease working for a reason unacceptable to the Office, the relocation expenses will be declared an overpayment and handled according to the usual procedures.⁵

³ 20 C.F.R. § 10.508.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reemployment: Determining Wage-Earning Capacity*, Chapter 2.0814.6 (July 1997).

⁵ *Id.* at Chapter 2.0814.6.d(2).

ANALYSIS

There is no provision in the Act or Office regulations that allows the payment of expenses for seeking employment. In *Carlos A. Tola*,⁶ the employee traveled from Panama to Bayonne, New Jersey, to seek employment with the Military Sealift Command. He completed an application for employment and was told the evaluation would take 60 days. As the employee could not afford to stay in New York City, he returned to Panama and requested reimbursement of his travel expenses. The Board affirmed the denial of reimbursement on the grounds that the employee's travel was for the purpose of seeking employment rather than in relocating to accept an offer of suitable employment. Neither the Office nor the Board could authorize such expenditures from the Federal Employees' Compensation Fund.

To the extent that appellant requested reimbursement for the expenses she incurred for the purpose of seeking employment in the State of Washington, including her travel to interview for the position of clinical nurse, the Office has no authority to grant her request. She must bear the costs of her search for employment.

There is, however, another aspect to appellant's request. She seeks reimbursement for actual relocation expenses. To the extent that appellant requests reimbursement for the expenses she incurred for the purpose of relocating to Washington to accept an offer of suitable work, the Board finds that she did not meet the conditions precedent for consideration of reimbursement. The distance between the location of the offered job and the location where the employee currently resided was at least 50 miles, as regulations require. Appellant was terminated from the employing establishment employment rolls and it appears she incurred relocation expenses by accepting the offered reemployment. Even if the Office found the job to be suitable, medically and otherwise, GSA regulations require employees whose moving expenses are paid by the Federal Government to remain in federal employment for one year after the move. Appellant remained in her new federal employment for only 10 days.

The Office found that appellant stopped working for a reason that was unacceptable. It stated that she might have had legitimate concerns about the position but that the employing establishment was endeavoring to address those concerns. The Board's review of the evidence confirms that the employing establishment acknowledged appellant's concerns and was in the process of taking concrete steps to address them. It recommended that appellant join in a conference call the following day, but she responded that she would not participate in the conference call and would be handing in her resignation.

The Board finds that the Office gave due consideration to the reason appellant stopped work. Having found her reason unacceptable, the Office did not abuse its discretion in denying reimbursement of relocation expenses where appellant failed to remain in federal employment for one year after the move. Under the circumstances, if it had reimbursed her relocation expenses, the reimbursement would necessarily be declared an overpayment and handled according to the usual procedures. The Board will affirm the Office's February 19, 2010 decision denying reimbursement.

⁶ 43 ECAB 492 (1992).

Counsel argued that tacit approval by the Office, but that does not answer appellant's failure to remain in her job for one year. The record does not show that appellant was forced to resign her job after only 10 days. To the contrary, she did not allow the employing establishment a reasonable opportunity to complete the actions it was already undertaking to address her concerns. The record supports the Office's finding that her reasons for stopping work were unacceptable.

CONCLUSION

The Board finds that the Office did not abuse its discretion by denying reimbursement of relocation expenses.

ORDER

IT IS HEREBY ORDERED THAT the February 19, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 18, 2011
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board