

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida

FILED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

SOUTHERN GEAR COMPANY OF
FLORIDA, INC.,

Petitioner,
vs.

DOAH CASE NO.: 07-4547
DOT CASE NO.: 07-092

DEPARTMENT OF TRANSPORTATION,

Respondent.

FINAL ORDER

On August 27, 2007, the Department of Transportation (Department) notified Southern Gear Company of Florida, Inc. (Southern Gear), that the Department was denying Southern Gear's request for reimbursement of storage expenses. On September 20, 2007, Southern Gear filed a letter requesting an administrative hearing.

An administrative hearing was held in this case in Tallahassee, Florida, on February 22, 2008, before P. Michael Ruff, a duly appointed Administrative Law Judge. Appearances on behalf of the parties were as follows:

For Petitioner: Garvin Brooks Bowden, Esquire
Gardner, Wadsworth, Duggar, Bist & Wiener, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308

For Respondent: Kimberly Clark Mencion, Esquire
Department of Transportation
605 Suwannee Street, M.S. 58
Tallahassee, Florida 32399-0458

Southern Gear presented the testimony of Kenneth Farmer and Durwood Pierce, and offered Petitioner's Exhibits A through R, which were admitted into evidence. The Department presented the testimony of Robert Knight and Steven Carlton, and offered Respondent's Exhibits 1 through 6, which were admitted into evidence. The Recommended Order was entered on May 21, 2008. No exceptions were filed.

STATEMENT OF THE ISSUE

As stated by the Administrative Law Judge in his Recommended Order, the issue presented was "whether reimbursement should be paid to the Petitioner for storage expenses for personal property, under the Florida Uniform Relocation Assistance Program and, if so, the amount of such reimbursement."

FINDING OF FACT

The Administrative Law Judge's Findings of Fact in paragraphs 1 through 15 are supported by competent, substantial evidence and are adopted and incorporated as if fully set forth herein.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over the subject matter of and the parties to this proceeding pursuant to Chapter 120, Florida Statutes.
2. The Conclusions of Law in paragraphs 16 through 30 of the Recommended Order are fully supported in law, and are adopted and incorporated as if fully set forth herein.

ORDER

Based upon the foregoing Finding of Fact and Conclusions of Law, it is

ORDERED that Southern Gear Company of Florida, Inc., shall receive reimbursement from the Department of Transportation for storage expenses beginning in October 2006 through

February 22, 2008, at the rate of \$15,000.00 per month and on a pro rata daily basis for the partial month of February 2008, at the daily rate of \$535.72, for a total of \$251,785.84.

DONE AND ORDERED this 6th day of August, 2008.



Stephanie C. Kopelousos
Secretary
Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida 32399

FILED D.O.T. CLERK
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NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.100(d), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, HAYDON BURNS BUILDING, 605 SUWANNEE STREET, M.S. 58, TALLAHASSEE, FLORIDA 32399-0458, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

Copies furnished to:

Kimberly Clark Menchion, Esquire
Assistant General Counsel
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P. Michael Ruff
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550

Robert E. Knight
State Relocation Administrator
Department of Transportation
Haydon Burns Building
605 Suwannee Street, M.S. 22
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Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0458

STEPHANIE C. KOPELOUSOS
SECRETARY

DELEGATION OF AUTHORITY

I, Stephanie C. Kopelousos, Secretary of the Florida Department of Transportation, delegate to Kevin J. Thibault, as the Assistant Secretary for Engineering and Operations, Deborah L. Hunt, as the Assistant Secretary for Intermodal Systems Development, and William F. Thorp, as the Interim Assistant Secretary for Finance and Administration, the authority and responsibility to take action on my behalf at anytime during my absence from the Department headquarters in Tallahassee. I also rescind any prior delegations to the contrary.

Stephanie C. Kopelousos, Secretary
Florida Department of Transportation

May 28, 2008

Date