



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 21, 2011

CBCA 2250-TRAV

In the Matter of ALFONSO DIAZ DEL CASTILLO

Alfonso Diaz Del Castillo, Arlington, VA, Claimant.

John J. Nichols, Attorney-Advisor, Office of the Chief Counsel, Transportation Security Administration, Arlington, VA, appearing for Department of Homeland Security.

SOMERS, Board Judge.

On January 5, 2011, claimant, Alfonso Diaz Del Castillo, filed a claim with the Board seeking reimbursement from the Department of Homeland Security, Transportation Security Agency (TSA), for expenses incurred in connection with his temporary duty (TDY) assignment beginning in July 2010. The agency informed the Board that claimant had never submitted a valid travel voucher in support of his claim for reimbursement; consequently, the agency never reimbursed him for his travel. Indeed, claimant did not include his voucher in the materials submitted to the Board initially.¹

In response to the Board's January 28, 2011, order dismissing the claim for lack of jurisdiction, Mr. Castillo submitted what he identified as a reply to the order. In addition to the reply, Mr. Castillo provided additional documents to support his claim. These included

¹ Prior to dismissing the original claim, the Board attempted to reach claimant to determine whether he had submitted a travel voucher, but to no avail. In his motion for reconsideration, Mr. Castillo explained that he did not respond to the Board's calls because he had been in the hospital.

what appears to be various versions of Mr. Castillo's travel voucher. The Board deemed this submittal as a request for reconsideration and directed the agency to respond.

The agency objects to the motion for reconsideration. It points out that Mr. Castillo has never submitted a "valid, sum-certain travel voucher," and, because it has not received a travel voucher, the agency never formally adjudicated his claim. A review of the documents submitted by Mr. Castillo, however, suggests otherwise. Therefore, we are granting Mr. Castillo's motion for reconsideration, and, in addition, we grant his claim for the reasons set forth below.

Background

The TSA sent Mr. Castillo on a temporary duty assignment to Oshkosh, Wisconsin, from his home in Pomfret, Maryland. Mr. Castillo sought permission to fly his private aircraft to Oshkosh.

TSA regulations do not permit employees to use private aircraft. TSA Management Directive No. 1000.6, Temporary Duty Travel Policy, para. M (July 10, 2008). In this case, however, the agency issued a one-time waiver to this policy, and approved Mr. Castillo's use of a privately owned aircraft (POA) for travel from July 24 to July 31, 2010. The memorandum presented as part of the waiver approval process included the agency's comparison of the estimated costs for Mr. Castillo to use his POA compared to the costs for the travel via the contract carrier. The agency calculated the cost for Mr. Castillo to use his POA to be \$1808.58, based upon one-way mileage travel of 701 miles at the mileage reimbursement rate for aircraft of \$1.29 per mile. The estimated constructive travel cost by contract airline carrier to Milwaukee, Wisconsin (the closest commercial airport), was \$245.93. Car rental from Milwaukee to Oshkosh would be required, with an estimated cost of approximately \$413.14. As indicated on the waiver request, even if the use of POA is granted, the authorized mode remained the established contract carrier plus car rental, and the reimbursed rate would be approximately \$659.07. The Assistant Administrator/CFO of TSA, Mr. David R. Nicholson, approved the waiver request on July 23, 2010.

Mr. Castillo did not have written travel orders prior to travel, but alleges that he received verbal approval to travel on July 24, 2010 (the day after the approval of the waiver). Documents indicate that a travel authorization had been created on August 2, 2010, and amended several times.² The versions of the travel authorization appearing in the record all

² Mr. Castillo filed his claim with the Board on December 22, 2010. The agency deleted, and then cancelled Mr. Castillo's travel authorization on January 25, 2011. The

include airfare, lodging, meals, mileage for privately owned vehicle, rental car, and transaction fees as authorized expenses.

Mr. Castillo traveled to Oshkosh via POA as planned. At his own initiative, Mr. Castillo elected to stay at a campground for a total lodging cost of \$66 for the four days of TDY.

When Mr. Castillo returned, he submitted a travel voucher, and then amended the travel voucher to attempt to reflect his actual lodging expenses of \$66. It appears that the agency denied his travel voucher due to his failure to include a receipt for a rental car. One financial specialist indicated in an e-mail message to Mr. Castillo that a cost comparison basis for the rental car would be sufficient. However, another TSA employee questioned Mr. Castillo's claim for a rental car, contending that Mr. Castillo should have traveled on a different day, which would have permitted him to share a rental car with other employees. In any event, the agency never compensated Mr. Castillo for his travel expenses.

Discussion

Under the Federal Travel Regulation (FTR), agencies must limit payment of travel expenses to costs which are necessary to accomplish a mission in the most economical and efficient manner. *Robert F. Teclaw*, CBCA 1572-TRAV, 09-2 BCA ¶ 34,166; 41 CFR 301-2.2, -70.1 (2009). An employee is eligible for reimbursement of transportation expenses when performing official duty. 41 CFR 301-10.1. However, when an employee chooses for reasons of personal preference to travel by a route or method different from the one authorized by his agency, the FTR requires the agency to “[l]imit reimbursement to the constructive cost of the authorized method of transportation, which is the sum of per diem and transportation expenses the employee would reasonably have incurred when traveling by the authorized method of transportation.” *Id.* 301-70.105; *see Daniel G. Shelton*, CBCA 473-TRAV, 07-1 BCA ¶ 33,493, at 166,012 (citing *Russell E. Yates*, GSBCA 15109-TRAV, 00-1 BCA ¶ 30,705 (1999), *reconsideration denied*, 00-1 BCA ¶ 30,785, at 152,027).

In this case, the agency has already conducted such an analysis when it submitted the travel waiver for approval. Thus, it determined that the actual cost based upon flying a POA exceeded the constructive cost for Mr. Castillo to fly commercial and to rent a car to reach his final destination. The cost, as calculated by the agency, is \$659.07.

record contains nothing to explain why the agency deleted and cancelled the authorization after the claim had been filed here.

To the extent that the agency now believes that Mr. Castillo did not have authorization for a rental car because he could have shared a rental car with other employees arriving at the same destination, this is inconsistent with Mr. Castillo's travel authorization, as well as with the information contained in the waiver request. The travel authorization is a record of vested travel entitlements and may not be administratively altered after the fact to increase or decrease benefits in the absence of clear error. *William T. Cowan, Jr.*, GSBCA 16525-TRAV, 05-1 BCA ¶ 32,906 (citing *Andre Long*, GSBCA 14498-TRAV, 98-1 BCA ¶ 29,731). The agency knew that Mr. Castillo intended on traveling on June 24, 2010 (apparently one day earlier than the other employees), and would need a rental car in conjunction with his commercial travel. There is no indication that the agency erred in granting Mr. Castillo authorization for a rental car. The cost of the rental car is therefore properly included in the calculation of the constructive costs.

Accordingly, we find that Mr. Castillo is entitled to the constructive costs of traveling by commercial air and rental car (\$659.07) and his actual costs for lodging (\$66). *See Shelton*, 07-1 BCA at 166,012. Mr. Castillo's orders indicate that he is authorized reimbursement in the amount of \$207 for meals, mileage for his POV in the amount of \$27.09, and a transaction fee of \$10.72. The agency has not indicated any disagreement with those amounts. Accordingly, the Board grants the claim in its entirety. The agency should reimburse Mr. Castillo his costs in the amount of \$969.88.

JERI KAYLENE SOMERS
Board Judge