



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 24, 2019

CBCA 6562-TRAV

In the Matter of RICHARD W. BRIGGS

Richard W. Briggs, Columbia, MD, Claimant.

Charity N. King, Office of General Counsel, National Security Agency, Fort Meade, MD, appearing for Department of Defense.

KULLBERG, Board Judge.

Claimant, Richard W. Briggs, seeks payment in the amount of \$422.64 for the cost of his flight from London to Baltimore. The National Security Agency (NSA) contends that Mr. Briggs' return overseas flight on British Airways did not comply with the Fly America Act, 49 U.S.C. § 40118 (2012). For the reasons stated below, the Board denies the claim.

Background

NSA deployed Mr. Briggs overseas during the period from February 20, 2019, to August 18, 2019. The itinerary for Mr. Briggs' return flight from overseas, which was arranged by a government travel agency, included a connecting flight from London to Baltimore. Mr. Briggs took leave before returning to the United States and cancelled his flight from London to Baltimore. He then purchased a ticket for a later return flight on British Airways. NSA denied reimbursement for his return flight on British Airways because he had not purchased a flight on a U.S.-flag carrier as required under the Fly America Act. Mr. Briggs then submitted his claim to the Board.

Discussion

The Fly America Act restricts a government employee's use of air travel between a place within the United States and a place outside the United States to air carriers certified under section 41102 of title 49, United States Code. 49 U.S.C § 40118(a). Under the Federal Travel Regulation (FTR), which applies to Mr. Briggs, a certified air carrier under section 41102 is a U.S.-flag air carrier. 41 CFR 301-10.133 (2018) (FTR 301-10.133). In addition to certified air carriers, a "U.S. flag air carrier service also includes service provided under a code share agreement with a foreign air carrier . . . when the ticket, or documentation for an electronic ticket, identifies the U.S. flag air carrier's designator code and flight number." *Id.* 301-10.134. The FTR further provides that a traveler "will not be reimbursed for any transportation cost for which [he or she] improperly use[s] [a] foreign air carrier service." *Id.* 301-10.143. A traveler can only receive reimbursement for travel on a foreign air carrier when the traveler's agency authorizes such travel. *Id.* The Joint Travel Regulations (JTR), which also apply to Mr. Briggs, similarly provide that "[t]here is no transportation reimbursement, for any leg of a trip, when an unauthorized or unapproved non-U.S. flag air carrier service . . . is used." JTR 020206-I.2.

NSA did not authorize Mr. Briggs' use of a foreign air carrier. In the absence of such authorization, Mr. Briggs is not entitled to reimbursement for his return air travel from London to Baltimore on British Airways. *See Makila James*, CBCA 5010-TRAV 16-1 BCA ¶ 36,308 at 177,041; *Inu K.C.*, CBCA 4973-TRAV, 15-1 BCA ¶ 36,181, at 176,532. Although Mr. Briggs contends that he was not properly informed of the restrictions on air travel under the Fly America Act, neither his lack of knowledge nor lack of correct advice from agency personnel will excuse his failure to use a U.S.-flag air carrier. *See Matthew J. Klages*, CBCA 4942-TRAV, 15-1 BCA ¶ 36,165, at 176,477. In any case, the Board has no authority to waive the requirements of the Fly America Act. *Id.*

Decision

The claim is denied.

H. Chuck Kullberg
H. CHUCK KULLBERG
Board Judge