



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 28, 2022

CBCA 7218-RELO

In the Matter of FADI A.

Fadi A., Claimant.

Kiley A. Holshey, Office of Legal Counsel, Department of the Navy, Norfolk, VA; and Karissa Getz, Office of Counsel, Department of the Navy, Portsmouth, VA, appearing for Department of the Navy.

BEARDSLEY, Board Judge (Chair).

Claimant, Fadi A., is a civilian employee of the Department of the Navy. In July 2021, claimant received permanent change of station (PCS) orders transferring him from outside the continental United States back to the continental United States. The Navy Travel Office (NAVPTO) booked claimant on a military-contracted flight that was scheduled to fly 40.5 hours outside of claimant's normal working hours (Sunday through Thursday 0700-1530), leaving on November 19, 2021.

Claimant seeks compensation for 40.5 hours of overtime (OT) pay or travel compensatory time for the time he may have been required to spend traveling outside of his normal working hours.¹ Specifically, claimant contests the assertion of the local human resources office and NAVPTO that "time spent during PCS travel is not compensable, i.e. no OT, regular time, or compensatory time."

Claimant also contests NAVPTO's refusal to book him on a commercial flight during his normal working hours. NAVPTO stated that it was required to fly claimant on a military-contracted flight in accordance with Department of Defense (DOD) instruction 4700.57. The Navy offered to allow claimant to book his own commercial flight but indicated that he

¹ We do not know if claimant flew on the military-contracted flight.

would be reimbursed for the commercial flight cost only up to the amount of the Government's cost for a military-contracted flight.

Claimant's claim is for compensation rather than relocation expenses. While this Board reviews federal civilian employees' claims "involving expenses incurred . . . for official travel and transportation, and for relocation expenses incident to transfers of official duty station," the Director of the Office of Personnel Management (OPM) resolves federal civilian employees' "claims involving . . . compensation and leave." 31 U.S.C. § 3702(a)(2), (3) (2018). More specifically, we decide "claims for reimbursement of expenses incurred in connection with relocation to a new duty station." Board Rule 401(b) (48 CFR 6104.401(b) (2020)). While the overtime pay or compensatory time claimed here is related to his transfer, claimant is not claiming reimbursement of relocation expenses but instead is claiming employee compensation. *Jerald Lucas*, 17-1 BCA ¶ 36,617 (2016) (finding that federal pay designated as a relocation bonus or incentive pay is not a relocation expense but is a form of employee compensation and within the purview of OPM, not the Board (citing *Robin D. Hibler*, CBCA 4852-RELO, 15-1 BCA ¶ 36,083)). We, therefore, do not have the authority to resolve claimant's claim for overtime pay or compensatory time. *Id.* We also do not have the authority to require the agency to have booked claimant on a commercial flight during his normal working hours – a moot point since the travel occurred in 2021.

Even if this claim were for relocation expenses, we would require the agency to have adjudicated the claim first. "Any claim for entitlement to travel or relocation expenses must first be filed with the claimant's own department or agency (the agency). The agency shall initially adjudicate the claim." Board Rule 401(c). Claimant has offered no evidence that he first filed a claim for reimbursement of relocation expenses with the agency or that the agency adjudicated such a claim. Claimant's emails request a decision on the question "Is the command's stand that pay is denied for traveling outside of working days due to government interest and convenience?" The agency clarified its stance by stating, "As I understand the policy, for PCS travel, the command [Forward Deployed Regional Maintenance Center] (FDRMC) does not pay overtime or travel comp time." This clarification is not an adjudication of a claim for reimbursement of relocation expenses. Since claimant has not filed a claim with the agency for reimbursement of travel or relocation expenses, we dismiss this claim. *Id.*; *Richard Gong*, CBCA 5598-RELO, 17-1 BCA ¶ 36,759 (citing *Donald L. Baker*, CBCA 3439-RELO, 14-1 BCA ¶ 35,728; *Richard P. Fenner*, CBCA 3207-RELO, 13 BCA ¶ 35,341).

Decision

The claim is dismissed.

Erica S. Beardsley
ERICA S. BEARDSLEY
Board Judge