



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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September 27, 2023

CBCA 7786-RELO

In the Matter of RICHARD W.

Richard W., Claimant.

Matthew T. Simiskey, Associate Comptroller, Department of State, North Charleston, SC, appearing for Department of State.

**KANG**, Board Judge.

Claimant is a foreign service officer employed by the Department of State (DOS or agency). Claimant seeks review of DOS's denial of his request for reimbursement of an Airbnb service fee incurred in connection with a lodging expense. For the reasons stated below, the claim is denied.

Background

DOS relocated claimant from Washington, D.C., to an overseas duty station in July 2022. Claimant's travel orders authorized a foreign transfer allowance (FTA), which included a ten calendar day "Pre-Departure Subsistence Expense." In June 2022, prior to departure, claimant booked seven nights of lodging in the Alexandria, Virginia, area through the Airbnb online service.

Claimant sought reimbursement from DOS of the Airbnb lodging expense as part of his FTA. DOS has granted reimbursement for all expenses other than a \$315 service fee charged by Airbnb. DOS contends that the service fee is not reimbursable because claimant's lodging was not booked through the agency's travel management center.

### Discussion

Pursuant to the Foreign Service Act, 22 U.S.C. § 4081 (2018), the Secretary of State has promulgated the Foreign Affairs Manual (FAM), which provides guidance for the payment of travel expenses for foreign service employees. 14 FAM 511.2-2. Unlike travel policies at other civilian agencies, the FAM is not subordinate to the Federal Travel Regulation, although the latter applies when specifically referenced by the FAM. 14 FAM 511.2-2; *see David C. Turnbull*, CBCA 5686-RELO, 17-1 BCA ¶ 36,864, at 179,619. The FAM provides that an FTA is an authorized allowance for foreign service employees, as defined by the Department of State Standardized Regulation (DSSR). 3 FAM, Exhibit 3210, Allowance Reference Table. The DSSR states that an FTA is “an allowance under 5 U.S.C. 5924(2)(A) for extraordinary, necessary and reasonable expenses, not otherwise compensated for, incurred by an employee incident to establishing him or herself at any post of assignment in a foreign area, including costs incurred in the United States . . . prior to departure for such post.” DSSR 241.1(a) (June 2022).

DOS does not contend that the FAM prohibits reimbursement where an employee fails to book lodging through the agency’s travel management center. Rather, DOS’s denial of claimant’s expense for the Airbnb service fee relies primarily on the provision at 14 FAM 563.2(8), which states that “Personal and Other Expenses” are not allowable, as follows: “Costs of a personal nature are not reimbursable, such as: . . . (8) Miscellaneous service fees (*i.e.*, administrative, booking, and third-party fees) resulting from booking transportation and lodging outside a government-contracted travel management center or government lodging program (*e.g.*, FedRooms).”<sup>1</sup>

Claimant acknowledges that he did not use the DOS travel management center to book his lodging and instead booked the reservation directly with Airbnb. Claimant contends, however, that denial of the service fee expense is improper because the FAM does not specifically require use of the DOS travel management center to book lodging for FTA expenses. Claimant further argues that the service fee should not be considered a personal expense because it was a mandatory fee imposed by Airbnb.<sup>2</sup>

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<sup>1</sup> A travel management center is a “commercial travel agent under joint contract with the General Services Administration (GSA), Department of State, and other Foreign Affairs agencies.” 14 FAM 511.3.

<sup>2</sup> Airbnb’s website describes its service fees as follows: “To help Airbnb run smoothly and to cover the cost of services like 24/7 customer support, we charge a service fee when a booking is confirmed.” Airbnb Service Fees, [www.airbnb.com/help/article/1857](https://www.airbnb.com/help/article/1857) (last visited Sept. 26, 2023).

The FAM provision cited by DOS clearly states that reimbursement of costs of a “personal nature” is not allowed and defines such costs as including service fees “resulting from” booking travel outside of a government travel management center.<sup>3</sup> 14 FAM 563.2(8). The Airbnb service fee at issue here was listed as a separate charge on claimant’s bill, distinct from the actual lodging expense. Thus, even assuming the Airbnb service fee was a mandatory portion of the booking, the applicable FAM provision treats the fee as an unallowable personal expense because claimant did not book his lodging through the DOS travel management center.<sup>4</sup>

Claimant also contends that the Airbnb service fee should be reimbursable because similar fees have been reimbursed to him by DOS on other occasions, both prior to and subsequent to this claim. Even if DOS has reimbursed this expense on other occasions, the FAM provision at 14 FAM 563.2(8) does not allow it. Absent a specific provision in statute or regulation granting an exception, neither an agency nor the Board has the authority to waive, modify, or depart from applicable travel regulations. *Jessica Guyton*, 6573-RELO, 19-1 BCA ¶ 37,414, at 181,863. Employee actions or inactions do not serve as a waiver of that requirement nor do they grant the agency or the Board any discretion that the law itself does not authorize. *See Charles A. Hines*, CBCA 4846-RELO, 16-1 BCA ¶ 36,392, at 177,428. For these reasons, any reimbursements of Airbnb service fees to claimant on other occasions by DOS would not establish that claimant is entitled to reimbursement of the disputed service fee here.

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<sup>3</sup> Certain of claimant’s and DOS’s arguments concern whether the Airbnb lodging was properly categorized as “conventional” or “nonconventional,” as those terms are defined in the FAM and DSSR. Because we find that the provision at 14 FAM 563.2(8) prohibits the reimbursement of service fees where an employee does not use the agency’s travel management center and that provision does not rely on the distinction between conventional and unconventional lodging, we need not resolve this matter.

<sup>4</sup> We note that our decision in *Kristina Leszczak*, CBCA 6041-TRAV, 18-1 BCA ¶ 37,140, at 180,834, involved a request for reimbursement of cleaning and service fees in connection with an Airbnb reservation by a foreign service officer. We found that both fees charged by Airbnb were reimbursable by DOS because: (1) there was no dispute that claimant incurred cleaning and service fees as part of, or incident to, her lodging expense; and (2) the agency did not identify any “specific provision of the FAM or other written travel policy or regulation” that prohibited reimbursement of either fee. At the time the Board issued our decision in *Kristina Leszczak*, the FAM did not include the provision at 14 FAM 563.2(8) disallowing reimbursement of service fees. The FAM was amended in 2021, however, and the provision at 14 FAM 563.2(8) applied at the time claimant incurred his June 2022 lodging expense. Claimant in this matter also incurred cleaning fees but those were reimbursed by DOS and, thus, are not in dispute here.

Decision

The claim is denied.

*Jonathan L. Kang*  
JONATHAN L. KANG  
Board Judge