



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 14, 2017

CBCA 5699-RELO

In the Matter of KIRSTEN R. CRUZ

Kirsten R. Cruz, Bremerton, WA, Claimant.

Ilona M. Keller, Office of the Deputy Chief of Staff, Civilian Personnel Directorate, Department of the Army, APO Area Europe, appearing for Department of the Army.

SULLIVAN, Board Judge.

Claimant, Kirsten R. Cruz, seeks payment of a miscellaneous expense allowance (MEA) and credit card fees as costs of her return to the continental United States after an overseas duty assignment. Because the agency, the Department of the Army, was returning Ms. Cruz to her home after the overseas assignment, it is not required to pay an MEA. Ms. Cruz has not identified a basis for the payment of her credit card fees. The claim is denied.

Background

Ms. Cruz was transferred to the NATO Coordination Center in Belgium in 2010. In 2016, Ms. Cruz sought to return to the United States to care for a sick relative. After she did not receive a priority placement with the Army, Ms. Cruz accepted a position with the Department of the Navy in Washington State. In the announcement for the position that Ms. Cruz accepted, the Navy advised that it would not pay any relocation costs. The Army issued a travel authorization for Ms. Cruz to return to the United States and authorized payment of travel expenses necessary to return her to Greenfield, Wisconsin, her original home of record.

Ms. Cruz sought reimbursement of costs incurred for her trip returning back to the United States, including \$1300 for an MEA. In her claim, Ms. Cruz also seeks \$138 for credit card fees that she incurred when she was unable to pay off the balance because the MEA had not been reimbursed and interest (2.5%) on the amounts that she claims.

Discussion

When an agency decides that it is in the best interests of the Government to relocate an employee, the agency shall reimburse the costs of travel, sale or purchase of a residence, and an amount for miscellaneous expenses. 5 U.S.C. § 5724(a) (2012). When an employee is transferring between agencies, the agency to which the employee is transferring reimburses the expenses. *Id.* § 5724(e). When an employee is returning from an overseas assignment, the agency may pay the costs of travel and transportation of household goods to the employee's "actual residence at the time of assignment to duty outside the continental United States." *Id.* § 5722(a)(2). The Joint Travel Regulations (JTR), to which Ms. Cruz is subject as a civilian employee of the Department of Defense, provide that, if an employee is reassigned from an overseas assignment to a new assignment within the continental United States different from the original home of record, the gaining activity will pay any MEA if it has authorized the reimbursement of relocation expenses. JTR 5574.

Ms. Cruz acknowledges that the Navy does not owe her the MEA because the Navy did not authorize the payment of relocation expenses for the position that she accepted. The Army authorized her return to the continental United States as it was required to do at the end of an overseas assignment, but her return was not in the best interests of the Army. Instead, Ms. Cruz's assignment was over and she wanted to accept the new position with the Navy. Because Ms. Cruz's travel was not in the best interests of the Army, the Army was not required to pay a MEA. *Gary L. Dissette*, CBCA 526-RELO, 07-1 BCA ¶ 33,572, at 166,309; *Marco A. Endara*, GSBCA 16524-RELO, 05-1 BCA ¶ 32,883, at 162,927.

Although claimants may receive interest on an MEA that is not reimbursed in a timely manner, *Nicholas J. Thacker*, CBCA 4981-RELO, 16-1 BCA ¶ 36,231, at 176,767, Ms. Cruz may not recover interest on an MEA that she is not owed.

Regarding Ms. Cruz's request for reimbursement of the credit card fees, the Army is obligated to pay late payment fees for "any proper travel claim not reimbursed within 30 calendar days of . . . submission of it to the approving official." 41 CFR 301-52.19 (2016). Because Ms. Cruz may not recover the MEA, these fees were not incurred for a "proper travel claim" and the Army is not required to reimburse Ms. Cruz for them.

MARIAN E. SULLIVAN
Board Judge