



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 21, 2010

CBCA 1813-RELO

In the Matter of RANDALL KALLENBACH

Randall Kallenbach, Hurlburt Field, FL, Claimant.

Stanley H. Webster, Office of Finance Customer Support, Department of the Air Force, Hurlburt Field, FL, appearing for Department of Defense.

GILMORE, Board Judge.

Claimant, Randall Kallenbach, a civilian employee with the Department of Defense (DOD), has asked the Board to review the DOD's denial of certain relocation expenses Mr. Kallenbach alleges were authorized under his travel orders. For reasons set forth below, we deny Mr. Kallenbach's claim.

Background

Mr. Kallenbach received notice the first week of May 2009 that his job would be relocating from Offutt Air Force Base, Nebraska, to Hurlburt Field, Florida. He signed a transportation agreement on May 14, 2009, agreeing to the permanent change of station (PCS). At that time, he was offered and accepted Temporary Quarters Subsistence Expenses (TQSE) based on a "fixed amount" as opposed to "actual expenses."

His travel orders were issued on June 3, 2009, and stated that fixed amount TQSE applied. He began his travel on June 22, 2009, and arrived at his new location on June 29, 2009. He submitted a travel voucher on July 2, 2009, which included a request for thirty days of TQSE (based on his projected temporary quarters stay from June 29, 2009, through the next month). The Department of Defense on August 26, 2009, paid for thirty days of

TQSE at the rate in effect at his new location at the time he signed the PCS transportation agreement, which was May 14, 2009. Mr. Kallenbach contends that the per diem rates that should have been used by DOD are the per diem rates in effect at the time he actually traveled and stayed in temporary quarters, June and July, and not the rate in effect at the time he accepted the fixed amount option.

Discussion

The Federal Travel Regulation applicable to TQSE fixed amount reimbursements is found in subpart C of 41 CFR part 302-6 (2009). The relevant sections are as follows:

302-6.200 What am I paid under the fixed amount reimbursement method?

If your agency offers and you select the fixed amount TQSE reimbursement method, you are paid a fixed amount for up to 30 days. No extensions are allowed under the fixed amount method.

302-6.201 How do I determine the amount of my payment under the fixed amount reimbursement method?

Multiply the number of days your agency authorizes TQSE by .75 times the maximum per diem rate (i.e., lodging plus meals and incidental expenses) prescribed in Chapter 301 of this subtitle for the locality of the new official station.

The applicable DOD Joint Travel Regulations (JTR) provide as follows:

TQSE(F) is a lump-sum payment based on the new PDS [permanent duty station] locality per diem rate in effect when the TQSE(F) offer is accepted by the employee. The lump-sum payment amount is not changed by any PDS per diem rate increase or decrease after the employee accepts the offer.

JTR C5384-A.3.

Mr. Kallenbach interprets these regulations to mean that, at the time of acceptance of the fixed amount (May), DOD should have applied the per diem rates that would be in effect at the time he would actually travel to, and stay, at the new location (June and July).

We agree with DOD's position, that when an employee agrees to a fixed amount, the regulation requires that the payment be based on the new PDS locality per diem rate when the offer is accepted by the employee. Since Mr. Kallenbach accepted the option when he signed his transportation agreement in May, the per diem rate in effect for May at the new location applies. The dates of the actual travel or stay do not determine the applicable per diem rate.

Decision

Based on the above, the May per diem rate applies and the DOD's calculation based upon the May rate is correct. Mr. Kallenbach's claim is denied.

BERYL S. GILMORE
Board Judge