



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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November 10, 2010

CBCA 2066-RELO

In the Matter of ARLENE B. SHEFFIELD

Arlene B. Sheffield, North Olmsted, OH, Claimant.

Phil Chandler, Human Resources Shared Services Center, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

**SOMERS**, Board Judge.

The Defense Finance and Accounting Service (DFAS) transferred one of its employees, Arlene B. Sheffield, from Kansas City, Missouri, to Cleveland, Ohio, in 2008. DFAS authorized payment to Ms. Sheffield of temporary quarters subsistence expenses (TQSE) for sixty days. Ms. Sheffield later asked that payment be authorized for an additional sixty days. DFAS denied this request. Ms. Sheffield has asked us to review the agency's decision. We find DFAS's determination to be reasonable and deny the claim.

Ms. Sheffield arrived in Cleveland on August 1, 2008, and began the sixty days of TQSE authorized by her orders. Ms. Sheffield states that because she had never been to Cleveland before, she wanted to ensure that she found appropriate living quarters in a safe location and of a size to accommodate her household goods (HHG). Ms. Sheffield notes that she spent most weekends and after work hours looking for property, but did not find a place until early October. She moved in on November 1, 2008.

Ms. Sheffield realized that she had failed to request an extension for her TQSE until she began to prepare her claim. She then submitted a request through her chain of command, which approved the request. Subsequently, however, Ms. Sheffield became

aware that the request must be approved by the DFAS office that had initially issued her permanent change of station orders, so she submitted her request to that office.<sup>1</sup>

By memorandum dated March 22, 2010, DFAS denied her request for an extension of her TQSE. DFAS stated that Ms. Sheffield had not provided adequate justification for an extension of TQSE as required by regulation. Ms. Sheffield has appealed this denial.

The regulation governing this matter is paragraph C5364 of the Joint Travel Regulations (JTR). This paragraph provides that the authorizing official may grant a TQSE allowance for up to sixty days. The authorizing official may extend the TQSE for an additional sixty days, with a total not to exceed 120 days. In making a determination as to whether an extension should be permitted, the authorizing official is required to consider whether compelling circumstances beyond the employee's control justify continued occupancy of temporary lodging. The JTR contains the following examples of circumstances that might be beyond the employee's control:

- (1) Delayed HHG transportation and/or delivery to the new permanent private sector housing due to extended transit time incident to ocean transportation, strikes, customs clearance, hazardous weather, fires, floods, or other Acts of God;
- (2) Delayed occupancy of new permanent private sector housing because of unanticipated problems (e.g., unforeseen delays in permanent private sector housing settlement/closing, or unforeseen short-term delay in new dwelling construction; . . .
- (3) Inability to locate permanent private sector housing adequate for family needs because of new PDS [permanent duty station] housing conditions;
- (4) Sudden illness, injury, or death of the employee or of an immediate family member; and
- (5) Similar factors.

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<sup>1</sup> Ms. Sheffield's request to DFAS for an extension of her TQSE allowance is undated.

JTR C5364-B.2(a). The JTR also provides that extensions of the initial period are not automatic and must be held to a minimum.

Agencies have broad discretion to determine whether compelling circumstances exist beyond the employee's control to justify a grant of additional TQSE. We do not overturn an agency's determination unless it is arbitrary, capricious, or contrary to law. *Beverly K. Joiner*, CBCA 1675-RELO, 09-2 BCA ¶ 34,273; *Kathleen C. Kelley*, CBCA 1228-RELO, 08-2 BCA ¶ 33,930; *Donald E. Coney*, CBCA 702-RELO, 07-2 BCA ¶ 33,605, and cases cited therein.

Here, DFAS determined that the reason Ms. Sheffield provided for not being able to locate suitable housing, that is, that she could not find a suitable location within her desired price range, is a matter of personal preference. DFAS concluded that Ms. Sheffield had failed to show that compelling circumstances of the nature specified in the regulations existed so as to justify additional TQSE allowance.

Based upon the record, we conclude that the Government's determination was not arbitrary, capricious, or contrary to law. Accordingly, we uphold the agency's determination and find that the claimant is not entitled to the requested extension of TQSE.

The claim is denied.

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JERI KAYLENE SOMERS  
Board Judge