



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 12, 2011

CBCA 2489-RELO

In the Matter of GORDON C. OLSON

Gordon C. Olson, Boulder City, NV, Claimant.

Timothy Bailey, Accounting Operations Center, National Park Service, Department of the Interior, Herndon, VA, appearing for Department of the Interior.

McCANN, Board Judge.

Claimant, Gordon C. Olson, is an employee of the National Park Service (NPS), Department of the Interior. He was issued permanent change of station (PCS) orders authorizing travel from New Market, Virginia, to Boulder City, Nevada. Mr. Olson completed his PCS move on December 10, 2010.

After the move, Mr. Olson submitted his request for reimbursement of travel expenses in the amount of \$2199.38. This amount covered the expenses for both him and his wife, who accompanied him on his PCS travel.

The NPS did not reimburse Mr. Olson for the entire amount. The agency withheld payment of \$12.06 because the amount claimed exceeded the common route mileage allowed. Mr. Olson has not indicated why he disagrees with the agency, or even if he does disagree. Accordingly, we find that the agency is correct and that Mr. Olson is not entitled to the \$12.06. The Agency also withheld \$53.03 for lodging taxes because Mr. Olson had paid these taxes through the use of a government-issued charge card. Thus, the overnment paid these taxes and not Mr. Olsen. Accordingly, Mr. Olsen is not entitled to the amount claimed.

The NPS further refused to reimburse Mr. Olson in the amount of \$267.98, which represents the amount that he claimed for lodging expenses for him and his wife in excess of the amount that was allowed for lodging by the NPS. More precisely, the NPS reimbursed Mr. Olson his actual lodging expenses for any particular day on which his lodging expenses did not exceed 175% of the allowed per diem rate for lodging for one person. Mr. Olson claimed entitlement to a flat 175% of the maximum amount that he would have been entitled to for lodging had he been traveling alone. The difference between 175% of the maximum lodging expense for Mr. Olson traveling alone and the amount authorized by the NPS is the \$267.98 in dispute. Mr. Olson was reimbursed 175% of the allowed per diem rate for one person for miscellaneous and incidental expenses (M&IE).

Discussion

The Federal Travel Regulation (FTR), specifies that spouses receive a maximum of three-fourths of the employee's per diem rate.

How much per diem will my spouse receive if he/she accompanies me while I am performing PCS travel?

The maximum amount your spouse may receive if he/she accompanies you while you are performing PCS Travel is three-fourths of your daily per diem rate.

41 CFR 302-4.203 (2010).

The NPS does not dispute that Mr. Olson is entitled to 175% of the M&IE portion of the per diem rate. It contends, however, that with regard to the lodging portion of the per diem rate, Mr. Olson is entitled to his and his wife's actual lodging expense, limited to 175% of the per diem rate for one person. The NPS contends that under the FTR, per diem should be computed on a lodgings plus M&IE basis.

How will my per diem expenses be reimbursed?

Per diem expenses will be reimbursed by the:

- (a) Lodgings-plus per diem method;
- (b) Reduced per diem method;
- (c) Conference lodging allowance method (see §§301-74.7 and 301-74.22 of this chapter); or
- (d) Actual expense method.

41 CFR 301-11.5.

The NPS contends that the only proper method of reimbursement in Mr. Olson's case is the lodgings-plus per diem method. Mr. Olson does not dispute the use of this method. The NPS further contends that FTR 302-4.203 gives it discretion to reimburse employees up to 175% of the per diem rate, but does not mandate that an employee be paid the entire 175%. It contends that, by reimbursing Mr. Olson for his actual lodging expenses up to 175% of the per diem rate, it is reimbursing him properly under the FTR.

The interpretation advanced by the NPS is consistent with the FTR rule that when a traveling employee requires overnight lodging, he is to be reimbursed his "actual lodging cost not to exceed the maximum lodging rate for the [temporary duty] location or stop-over point." FTR 301-11.100. This is in line with FTR 302.4.200 that indicates that a PCS traveler will be reimbursed in accordance with FTR 301-11.100. This interpretation has been promulgated subsequently by the Department of the Interior in its Permanent Change of Station Policy, which became effective August 1, 2011. That policy, at page 15, states:

En route per diem is based on the standard CONUS [continental United States] rate. Calculation of per diem is the same as for Temporary Duty (TDY), travel, three-fourths of the M&IE rate for first and last day of travel. The standard CONUS rate is subject to change so be sure and verify the rate in effect at the time of the travel.

- * **Employee** - M&IE plus actual lodging costs not to exceed Standard CONUS rate.
- * **Spouse or same sex domestic partner (not accompanying employee)** - entitled to the employee's rate indicated above.
- * **Spouse or same sex domestic partner (accompanying employee) and children 12 years and older** - will be three-fourths of the employee's rate.
- * **Children under 12 years** - one-half of the employee's rate.

The reimbursement of lodging is limited to the actual expense incurred by the employee and/or the immediate family (as indicated on the lodging receipt), or the lodging portion of the Standard CONUS per diem rate multiplied by the aggregate total of the percentages indicated above, whichever is less. If there are days when no lodging costs are incurred, the employee is entitled to the CONUS M&IE rate and the family member's rate would be the appropriate percentages as indicated above.

FTR 302-4.203 clearly states that the maximum amount an employee traveling with his spouse can recover for per diem for PCS travel is 175% of the amount he could recover if he were traveling alone. This section does not mandate that an employee get 175% of the per diem rate if he is traveling with his spouse. The agency's application of temporary duty lodgings-plus rules to PCS travel is reasonable and appropriate.

Decision

The claim is denied.

R. ANTHONY McCANN
Board Judge