



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 3, 2013

CBCA 3240-TRAV

In the Matter of JENNIFER A. MILLER

Jennifer A. Miller, Fayetteville, NC, Claimant.

Amy Preston, Holm Center Financial Management, Department of the Air Force, Maxwell Air Force Base, AL, appearing for Department of the Air Force.

BORWICK, Board Judge.

This claim involves three separate sub-claims submitted by Jennifer A. Miller (claimant) against the Department of the Air Force (agency). For each sub-claim, the claimant requests a late payment fee prescribed by the Federal Travel Regulation (FTR) and the Department of Defense Financial Management Regulations (DoD FMR) for alleged undue delay in processing her vouchers submitted after authorized temporary duty (TDY) trips. For the reasons below, we grant sub-claims one and three and deny sub-claim two. We address the sub-claims in the order that claimant presents them.

Background

Sub-claim one

This sub-claim involves claimant's TDY from Maxwell Air Force Base (AFB), Alabama, to Minneapolis, Minnesota. That travel commenced on May 30, 2011. On or about June 9, 2011, claimant submitted a voucher for her travel expenses, including mileage expenses for use of the privately-owned vehicle (POV) she used in driving between her home and her permanent duty station (PDS) incident to her TDY. Claimant used her POV to enable her to carpool to the airport from the PDS with other traveling

employees.

On or about June 30, 2011, the agency denied reimbursement for the mileage expense. The agency admits that its initial denial was erroneous. Employees traveling on TDY indeed may claim mileage for their POV use incident to a TDY trip as long as use of the POV is advantageous to the Government. See 41 CFR 301-10.306 (2010); *Orlando Sutton*, CBCA 2823-TRAV, 12-2 BCA ¶ 35,120. The agency does not deny that claimant's use of her POV in this case was advantageous to the Government. However, claimant put the matter aside when officials at the agency's travel assistance center erroneously advised her that the agency properly denied her mileage claim.

While researching another matter, claimant came upon the *Orlando Sutton* case referenced above and, in February 2013, promptly submitted a second voucher for the POV mileage, which the agency paid. Claimant then filed a request for late payment fee for the mileage amount not promptly paid. Upon the agency's denial of that request claimant submitted a claim to the Board.

Sub-claim two

This sub-claim involves a TDY trip from Maxwell AFB to Keesler AFB on or about April 15, 2012. Although travel by commercial air was the default method of transportation, given the short distance between claimant's residence and the TDY site, the agency agreed that claimant's POV use was advantageous to the Government and reimbursed claimant for her use of a POV for the trip. Claimant drove her POV round-trip between Wetumka, Alabama, and Keesler AFB. She first submitted an electronic voucher for that trip on May 17, 2012, which the agency correctly rejected on June 13 for two reasons. First, the voucher contained an unallowable claim for a flat tire. Second, the voucher contained an address in Freeport, Florida, as her starting point, not Wetumka, Alabama, which would have made the automatic mileage calculation by the agency's computerized voucher system inaccurate.

Claimant says she corrected the voucher and submitted it with the correct address on or about June 14, 2012. According to the agency, the voucher was still incorrect as submitted because it contained the erroneous Florida address as the TDY starting point. The voucher sat on agency computers without action for six months. Claimant maintains that she sent e-mail messages to the approving official with elevation through the chain of command inquiring about the status of the voucher after its re-submittal. The approving official states that claimant did not advise her of the re-submission until December 4. The approving official's Support Director has submitted a memorandum to the file stating that at no time did claimant elevate the voucher submission to her attention, and had she done so, she would have ensured her voucher was processed immediately.

The agency also says the correct departure city was not added until December 13, 2012. The agency points to its exhibit F as proof, which is a voucher dated December 13, 2012. Block fifteen of that voucher shows the correct departure city of Wetumka, Alabama, while block eleven shows a residential address of Freeport, Florida.

Sub-claim three

This sub-claim involves a two-day TDY trip by commercial aircraft from Maxwell AFB to Fort Bragg, North Carolina, commencing on October 31, 2012. Claimant submitted a voucher for that trip on November 2. The voucher was returned on November 13, because the agency incorrectly thought the funding agency should have been the Department of the Army. Claimant resubmitted the voucher on November 15. On December 14, the voucher was adjusted because the approving official thought there was a duplicate expense of \$25 recorded for airline baggage fee. On December 28, claimant resubmitted the voucher with an additional receipt showing that the airline charged the \$25 fee for both the outgoing and return flights. The voucher received final approval on January 9, 2013.

Discussion

Sub-claim one

The agency maintained that claimant waited too long to bring the erroneous denial of the POV expenses to their attention. The agency now says that had she brought the denial directly to the attention of the approving official rather than employees of the agency's travel assistance center, the approving official would have approved the voucher. That statement, of course, is mere speculation and claimant maintains that she did indeed refer the initial denial to the approving official. Whether claimant did so or not is irrelevant.

An agency must reimburse vouchering employees for allowable expenses within thirty calendar days of submitting a proper claim to the agency's designated approving office. 41 CFR 301-52.17; DoD FMR ¶ 031201A. The voucher was proper when submitted on June 9, 2011, since the POV mileage expense was allowable. An employee is entitled to a late payment fee based on the Prompt Payment Act interest rate beginning on the thirty-first day after submission of a proper travel claim and ending on the date payment is made. 41 CFR 301-52.20; DoD FMR ¶ 031201C. Claimant is entitled to the late payment fee so calculated.

Sub-claim two

As to sub-claim two, the record supports the agency's version of events. Claimant did not submit a proper voucher until December 13, 2012. The agency approved the voucher on December 14, 2012. Claimant is not entitled to a late payment fee. Claimant's six-month delay in personally bringing the voucher re-submittal of June 14 to her supervisor's attention was not reasonable.

Sub-claim three

Claimant is entitled to a late fee for the processing of this voucher. The voucher was proper as submitted on November 2. The delay from November 2 through November 13 was the agency's fault because it was confused as to the correct funding source. The delay from November 15 to December 14 because of the alleged duplicate baggage fee expense was unnecessary. This matter might have been resolved in a phone call confirming that the airline charged one baggage fee for each flight. Claimant is entitled to a late payment fee for the delay in processing the voucher.

ANTHONY S. BORWICK
Board Judge