



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 24, 2015

CBCA 4921-RELO

In the Matter of MARIELOUISE R. ASSING

MarieLouise R. Assing, Wiesbaden, Germany, Claimant.

Vera A. Garcia, Assistant Deputy Chief of Staff, G1, Civilian Personnel Directorate, United States Army, Europe, APO Area Europe, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

In January 2015, the Department of the Army hired MarieLouise R. Assing to work at a position in Germany. At the time, Ms. Assing was living in Tucson, Arizona. The Army issued orders directing her to travel from Tucson to Germany to assume her position. The orders authorized travel by privately owned conveyance, rail, and air.

Ms. Assing left Tucson on March 13 and drove across the United States, reaching Maryland on March 17. She remained in Maryland until March 22, when she took a flight to Germany. Ms. Assing claims entitlement to a Foreign Transfer Allowance (FTA) for the ten days between March 13 and March 22. The Army has denied the claim. The agency concedes that Ms. Assing was eligible to receive a FTA, but maintains that she did not fulfill the regulatory requirements which establish qualifications for payment of the allowance.

A FTA is “an allowance under 5 U.S.C. 5924(2)(A) for extraordinary, necessary and reasonable expenses, not otherwise compensated for, incurred by an employee incident to establishing him or herself at any post of assignment in a foreign area, including costs incurred in the United States . . . prior to departure for such post.” Department of State

Standardized Regulations (DSSR) 241.1(a).¹ One element of the FTA is “a predeparture subsistence expense portion applicable to lodging, meals (including tips), laundry, cleaning and pressing expenses in temporary quarters for employee and each member of family for up to 10 days before final departure from a post in the United States to a post in a foreign area, beginning not more than 30 days after they have vacated residence quarters.” *Id.* 241.2(c). The DSSR provide further – and this is the key paragraph for resolving this dispute – “The ten days may be anywhere in the U.S. . . . as long as employee or family members have not begun travel on orders and final departure is from the U.S. post of assignment.” *Id.* 242.3(c).

To the Army, this case is very simple: Ms. Assing was authorized to travel from Tucson, so when she began to drive across the country, on March 13, she had “begun travel on orders” and was therefore disqualified from receiving a FTA for any day after that date. To Ms. Assing, the case is more complex: She needed to take her 125-pound dog with her and airlines would not take a pet of that weight on a domestic flight. She explains, “There are no military flights from Tucson so I had no other choice but to drive to Baltimore and catch the rotator [sic -- evidently a military flight] from there. There are extenuating circumstances that can exist and should therefore be taken into account.”

We agree with the Army that the regulations governing the FTA are unforgiving; they do not allow granting the allowance to anyone, no matter the circumstances, for any days after an employee begins travel on orders. *Tyler F. Horner*, CBCA 4468-RELO, 15-1 BCA ¶ 35,899; *Jessica M. Koldoff*, CBCA 2656-RELO, 12-2 BCA ¶ 35,151. The claim must therefore be denied.

We note that the Army authorized Ms. Assing to travel from Tucson to Germany by privately owned conveyance as well as by air. If the agency has not already paid the

¹ Department of Defense civilian employees are subject to the DSSR for travel and relocation in foreign areas. Joint Travel Regulations (JTR) Intro. B.3.c(1).

employee for the expenses she incurred in driving from Tucson to Maryland, it should consider whether those expenses may be paid as costs of travel, even though they may not be paid through the FTA mechanism.

STEPHEN M. DANIELS
Board Judge