



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 1, 2015

CBCA 4967-RELO

In the Matter of LAMONTE A. JOHNSON

Lamonte A. Johnson, Fort Myer, VA, Claimant.

Michael A. Egan, Chief, Administrative Law, Military District of Washington, Department of the Army, Fort McNair, Washington, DC, appearing for Department of the Army.

WALTERS, Board Judge.

Claimant, Lamonte A. Johnson, a civilian employee of the Department of the Army, seeks the Board's review of his agency's denial of reimbursement for temporary quarters subsistence expenses (TQSE) in conjunction with his permanent change of station (PCS) move from Osan Air Force Base (AFB), Japan, to Fort Myer, Virginia. For the reasons explained below, the claim is denied.

Background

In 2011, in connection with a previous PCS move from Heidelberg, Germany, to Fort Myer, Virginia, although claimant's travel orders did not authorize reimbursement for TQSE, he was able to have his orders amended retroactively, so that he could collect TQSE reimbursement. The travel orders for the instant PCS from Osan AFB to Fort Myer in late 2014 similarly did not authorize TQSE reimbursement, and claimant attempted unsuccessfully to have those orders amended retroactively to provide for TQSE reimbursement for hotel lodging expenses he incurred after his return to Fort Myer. The agency refused to acknowledge that claimant was entitled to such reimbursement as a matter of right, and asserted that TQSE must be authorized in advance of temporary lodging

occupancy and was not authorized as part of claimant's travel orders. His claim was denied by the agency, first in June 2015 and again on August 13, 2015. Claimant subsequently sought our review.

Discussion

It is well established that TQSE reimbursement is an allowance provided to government employees as a matter solely within the discretion of their agencies and not as a benefit to which they are automatically entitled. 5 U.S.C. § 5724a(c) (2012); *Christopher W. Harding*, CBCA 4542-RELO, 15-1 BCA ¶ 35,990, at 175,830; *Thomas G. Tucker, Jr.*, GSBCA 16682-RELO, 06-1 BCA ¶ 33,168, at 164,357; *see also Charles J. Wright*, CBCA 4799-RELO, 15-1 BCA ¶ 36,138; 41 CFR 302-6.6 (2015). Although, as the agency correctly observes, the Federal Travel Regulation (FTR) requires that TQSE be authorized prior to the occupancy of temporary quarters, 41 CFR 302-6.7, travel orders may be amended retroactively in limited circumstances, e.g., in order to correct for agency error or inadvertence, to permit such reimbursement. *Peggy L. Clevenger*, CBCA 3854-RELO, 14-1 BCA ¶ 35,796, at 175,080. Here, the agency strenuously denies any error or inadvertence in connection with the preparation of claimant's PCS travel orders, in terms of their omission of TQSE authorization. And the fact that there may have been prior history of retroactive amendment of orders for claimant to provide for TQSE reimbursement does not mean that he was entitled to retroactive amendment in the present case. In *Tucker*, the General Services Board of Contract Appeals (GSBCA) (our predecessor Board for considering travel and relocation related matters) was presented with a claim for TQSE reimbursement and denied its recovery, notwithstanding that the claimant there had received such reimbursement on six separate occasions during the previous twenty years. In this regard, the Board found that it could not conclude that the agency's determination not to extend such a benefit for the seventh PCS move represented an abuse of discretion. 06-1 BCA at 164,357. Based on the record before us in the present case, we likewise cannot conclude that the agency's decision not to provide TQSE reimbursement to claimant constituted an abuse of discretion.

Decision

The claim is denied.

RICHARD C. WALTERS
Board Judge