



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 3, 2016

CBCA 5355-RELO

In the Matter of WILLIAM E. REGISTER

William E. Register, Graceville, FL, Putative Claimant.

Joan M. Ellzey Rodgers, Resource Management Officer, United States Army Garrison Japan, Department of the Army, APO Area Pacific, appearing for Department of the Army.

O'ROURKE, Board Judge.

The agency requests an advance decision on whether the Government can pay a local hotel for lodging expenses incurred by a federal employee when the Army transferred him to Japan. Since the request does not involve a claim by a federal employee against the United States, the Board has no authority to issue the advance decision requested by the agency.

Background

On December 15, 2015, a federal civilian employee checked into a hotel after being reassigned to the United States Army Garrison at Torii Station in Okinawa, Japan. The employee's temporary change of station orders, dated November 2, 2015, authorized temporary quarters subsistence allowance (TQSA) for up to ninety days after his arrival in Japan. The orders also stated, "[E]mployee is not a Government Travel Charge Card (GTCC) holder. Commercial transportation will be procured with a Centrally Billed Account (CBA)."

On January 24, 2016, the employee checked out of the hotel. According to the agency, when the employee was presented with his lodging bill of approximately ¥534,000 (about \$5000), he told hotel staff that "a Japanese National from Torii Station would come over and pay the hotel bill." In a subsequent email exchange between the employee and an

Army representative, the employee explained that he was not given any money for lodging and was advised that the hotel had an agreement with Torii Station which allowed the hotel to bill the installation for the charges. The agency advises that no such agreement existed.

Since the employee was authorized TQSA and would be reimbursed for any lodging expenses, agency personnel first attempted to resolve the matter with the employee. These efforts failed, and the employee separated from the civil service without settling the hotel bill. Agency officials then began exploring ways the agency could pay the hotel directly. They sought advice from their local finance and legal offices, as well as from the Defense Finance Accounting Service (DFAS) in the United States. These consultations did not resolve the problem.

On June 8, 2016, the agency filed its request for an advance decision from this Board, stating simply, “[R]equest advance decision for payment to local hotel for expense incurred by government employee.” Attached to the request were the employee’s orders, the hotel bill, and multiple electronic mail exchanges among the employee, agency personnel, and DFAS. The former federal employee never filed a claim for reimbursement, so the agency desires to pay the hotel directly. For the following reasons, the Board cannot issue the requested decision.

Discussion

Our statutory charge is to settle claims against the United States Government “involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station.” *See Patrick M. Mayette*, CBCA 4746-RELO, 15-1 BCA ¶ 36,032 (citing 31 U.S.C. § 3702(a)(3)(2012)). Such claims come before the Board in one of two ways: (1) directly from federal employees concerning expenses incurred for official travel, or (2) from agency representatives when requesting advance decisions on payments of travel claims presented to disbursing officials. *Mark J. Lumer*, CBCA 1079-TRAV, 08-1 BCA ¶ 33,819.

An agency disbursing or certifying official, or the head of an agency, may request a decision from us regarding a question involving a payment the agency will make or a voucher presented for payment. When requesting an advance decision from the Board, the agency essentially seeks formal advice before deciding whether to pay an employee’s claim for travel or relocation expenses. *Alexander J. Qatsha*, GSBCA 15494-RELO, 01-1 BCA ¶ 31,364. Board Rule 502, “Request for Decision” (48 CFR 6105.502 (2015)), implements 31 U.S.C. § 3529. According to the Rule, the Board is authorized to issue a Section 3529 decision:

on a question involving . . . the following type of claim made against the United States by a federal civilian employee:

(i) A claim for reimbursement of expenses incurred while on official temporary duty travel; and

(ii) A claim for reimbursement of expenses incurred in connection with relocation to a new duty station.

. . . A request for a Section 3529 . . . decision must refer to a specific payment or voucher; it may not seek general legal advice.

The rule also requires the agency to (1) explain in writing why the certifying official, disbursing official, or agency head is seeking an advance decision, rather than taking action on his or her own initiative; (2) state the question(s) presented and include citations to applicable statutes, regulations, and cases; and (3) include any other information the official believes the Board should consider. Thus, for the Board to issue an advance opinion, there must be an actual employee claim for payment or reimbursement. *Randal S. Kendrick*, CBCA 4096-RELO, 14-1 BCA ¶ 35,772 (citing *Vivian N. Rodriguez*, CBCA 3083-RELO, 13 BCA ¶ 35,208 (2012)).

In this case, there is no claim against the United States by a federal employee. Rather, a local hotel is making a claim against the United States for lodging services it provided to a federal employee. The agency does not dispute the legitimacy of the hotel's claim, nor did the employee deny that he incurred the authorized charges. He simply did not have a GTCC to pay the bill, and he was not given an advance payment by the agency to cover it. The question, therefore, is not one of entitlement, but rather one involving the method of payment, and this is not a question on which the Board can opine.

Decision

In the absence of an actual claim by a federal employee against the United States, the Board lacks the authority to issue an advance decision on this matter.

KATHLEEN J. O'ROURKE
Board Judge