



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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November 1, 2016

CBCA 5399-RELO

In the Matter of JERMAINE W. DEWITT

Jermaine W. DeWitt, Bellevue, NE, Claimant.

Helen J. S. White, Assistant General Counsel, Office of the General Counsel, Defense Commissary Agency, Fort Lee, VA, appearing for Defense Commissary Agency.

**WALTERS**, Board Judge.

Claimant, Jermaine W. DeWitt, currently works for the Department of the Air Force. In 2015, claimant was a civilian employee of the Defense Commissary Agency (DeCA). Mr. DeWitt was denied a claim for reimbursement, through a temporary quarters subsistence allowance (TQSA), of expenses he incurred in conjunction with a permanent change of station (PCS) move from Osan Air Force Base (AFB), Korea, to Offutt AFB, Nebraska in August 2015. In addition to the TQSA expense claim, Mr. DeWitt has sought this Board's review of several other matters, including: (1) the agency's denial of a performance bonus, which he maintains came as retaliation for his "whistle blowing" several months prior to his departure from Korea; and (2) his entitlement to living quarters allowance (LQA) for the 5.5 years he spent with DeCA overseas. As explained below, we dismiss all of these matters, either because they are beyond this Board's purview or – in the case of the TQSA claim – because our review of that claim is premature.

Background

In August 2015, claimant was transferred from his position with DeCA at Osan AFB, Korea, to another position at Offutt AFB, Nebraska. His initial travel orders for the PCS move did not provide for TQSA. In July 2015, and before claimant commenced the move,

a representative of the Air Force furnished DeCA with a line of accounting for TQSA and requested that claimant's orders be amended to include TQSA expense reimbursement, which they were. Relying on the amended orders, claimant and his family stayed at a hotel in Korea for ten days while transitioning from Korea to Nebraska. After the expenses were incurred, in February 2016, DeCA amended claimant's travel orders once again, deleting TQSA authorization. Claimant sought reimbursement for his TQSA expenses, but the agency denied that claim, and in July 2016, claimant presented the matter to the Board for its review. At the same time, claimant asked that the Board address the agency's previous refusal to provide him with a performance bonus as well as its refusal to provide him with LQA during his tenure overseas with the agency. In this regard, claimant's submission states:

I applied and was hired while residing in America in 2009 and gained employment with DeCA in Europe overseas, so technically I should have been collecting living quarters allowance (LQA) for the 5.5 years I was overseas, but DeCA also has denied that claim as well.

#### Discussion

This Board's authority to settle claims is limited by statute to "claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official station." *Antonio K. Hubbard*, CBCA 3066-RELO, 13 BCA ¶ 35,356, at 173,534, quoting 31 U.S.C. § 3702(a)(3) (2006). DeCA correctly observes that this Board is without jurisdiction to review its denials of either the bonus claim or the claim for LQA, since those matters involve compensation and fall under the purview of the Office of Personnel Management (OPM), which is authorized to "settle claims involving Federal civilian employees' compensation and leave." *Id.*, 13-1 BCA at 173,534, quoting 31 U.S.C. § 3702(a)(2)); *see also Freddie O. Jarvis II*, CBCA 5129-RELO (July 21, 2016) (Board without jurisdiction to review agency demand for repayment of salary); *Willie J. Chandler*, CBCA 5286-RELO, 16-1 BCA ¶ 36,348 (Board without authority to review LQA, which is "more properly viewed as a species of compensation"); *Henry L. Bownes, Jr.*, CBCA 4471-RELO, 15-1 BCA ¶ 36,086 (Board without jurisdiction to review claim to LQA entitlement); *Carmalliticia K. Davis*, CBCA 2622-RELO, 12-2 BCA ¶ 35,095 (Board without jurisdiction to review request for waiver of repayment of a cash bonus, deemed a "form of compensation"). Similarly, the Board is without jurisdiction over matters involving alleged retaliation for whistle blowing.

DeCA acknowledges that the Board is fully vested with authority to review the claim for TQSA expense reimbursement, as it involves an element of relocation benefits. The agency urges that while ordinarily, an employee's incurrence of costs authorized by his orders should result in those costs being reimbursed, in claimant's case, TQSA was

unavailable to claimant as a matter of regulation, and its final amendment of claimant's travel orders to delete TQSA reimbursement was correct. In support of this argument, DeCA cites to the following language of the Joint Travel Regulations (JTR), which govern civilian employees of military organizations such as claimant:

An employee is authorized TQSA for temporary Qtrs [quarters] (including meals and laundry/dry-cleaning expenses) occupied after first arrival at a PDS [permanent duty station] in a foreign area or immediately preceding final departure from that PDS **if the employee is eligible for a Living Qtrs Allowance (LQA)** under the provisions in the DoDI [Department of Defense Instruction] 1400.25, Volume 1250 and DSSR [Department of State Standardized Regulations] Section 031.1. TQSA rules are in DSSR Section 120.

JTR 1257 (emphasis added). This, of course, begs the question. Because this Board cannot address or resolve claimant's eligibility to LQA, at this stage we cannot determine whether DeCA's denial of TQSA reimbursement was appropriate. We suggest that claimant first seek review from OPM of his claim to LQA – to establish either entitlement to LQA or at least his eligibility for LQA during his overseas tenure – as well as of his claim regarding the performance bonus. Only when eligibility for LQA has been established will the matter of TQSA reimbursement be ripe for this Board's review.

#### Decision

For the foregoing reasons, the claim is dismissed.

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RICHARD C. WALTERS  
Board Judge