



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

August 29, 2016

CBCA 4905-RELO

In the Matter of CHARLES K. HILL

Charles K. Hill, FPO Area Europe, Claimant.

Jacqueline D. Thompson, Director, and Maria J. Fuentes, HR Specialist, Human Resources Office, United States Naval Station Rota Spain, FPO Area Europe, appearing for Department of the Navy.

ZISCHKAU, Board Judge.

On June 11, 2016, we sustained a claim by Charles K. Hill, an employee of the Department of the Navy, concluding that the agency was authorized to pay the temporary quarters subsistence allowance (TQSA) of Mr. Hill's wife and children during the nineteen days prior to his arrival at his new duty station in Rota, Spain. Charles K. Hill, CBCA 4905-RELO, 16-1 BCA ¶ 36,401. Although the travel orders originally had Mr. Hill and his family traveling together, Mr. Hill's departure from his old station in West Virginia was delayed due to a delay in the issuance of his government passport. Under 5 U.S.C. § 5923(a)(1)(A) (2012) and section 123.1 of the Department of State Standardized Regulations (DSSR), we determined that TQSA may be granted beginning on the date a family member arrives at the new post prior to the employee where the employee's departure from his old station has been delayed due to delays in the issuance of the employee's government passport. On August 11, 2016, the Rota human resources office (HRO) at his new post filed a request for reconsideration of our decision. None of the grounds raised by the Rota HRO is a valid basis for reconsidering our decision. Accordingly, we deny the request for reconsideration.

First, HRO argues that Mr. Hill was not an "employee" but only a "selectee" at the Morale, Welfare, and Recreation (MWR) department at the Naval Station in Rota, Spain. HRO seems to be arguing that the language of DSSR 123.1.b – which provides that TQSA may be paid as of the date a family member arrives at the new post prior to the employee

when the employee's first arrival is delayed – does not apply here because Mr. Hill was not an “employee” of the MWR department at the Rota Naval Station until June 20, 2015, the date of his departure from the United States. While agreeing that Mr. Hill, in his prior position, was an employee of the Department of the Navy as the MWR director at the Naval Support Activity in Sugar Grove, West Virginia, Rota HRO contends that DSSR 123.1.b. only permits TQSA to earlier arriving family where the individual is already in his new position. We see no basis for reading into DSSR 123.1 the additional limitation urged by Rota HRO. Indeed, the language of DSSR 123.1 uses the term “employee” for the individual both prior to and after the official transfer date.

Next, Rota HRO argues that Mr. Hill's family “violated the PCS authorization by traveling in advance of Mr. Hill” and that Mr. Hill did not advise Rota HRO of the earlier arrival of his wife and children. This is clearly wrong. Rota HRO executed Mr. Hill's travel orders on March 27, 2015, which showed a report date for Mr. Hill and his family on May 1, 2015. On May 15, 2015, Mr. Hill forwarded to the gaining activity in Rota the travel itinerary for his wife and children, showing their departure on May 31 and arrival in Spain on June 1, 2015. The itinerary did not include travel for Mr. Hill. Apparently, the May 1 report date indicated on the March 27 travel orders for Mr. Hill came and went without Rota HRO ever amending Mr. Hill's travel orders. HRO's new argument, that it assumed the family was “on vacation in Spain” during this period, is also contradicted by the fact that the family attended mandatory base classes and other orientation activities at Rota during the period prior to Mr. Hill's arrival.

Rota HRO's request for reconsideration is denied. The agency shall promptly determine and pay to Mr. Hill the amount of TQSA relating to Mr. Hill's wife and children for the period June 1-19, 2015.

JONATHAN D. ZISCHKAU
Board Judge