



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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October 23, 2018

CBCA 6125-RELO

In the Matter of RICARDO G. LEANO

Ricardo G. Leano, Pearl Harbor, HI, Claimant.

Christine R. Botelho, Civilian Personnel Officer, Hickam Civilian Personnel Section, Department of the Air Force, Joint Base Pearl Harbor-Hickam, HI, appearing for the Department of the Air Force.

**RUSSELL**, Board Judge.

Claimant, Ricardo G. Leano, seeks reimbursement for a temporary quarters subsistence expense (TQSE) after he exercised return rights from a position with the Department of the Army (Army) in Italy to one with the Department of the Air Force (Air Force) in Hawaii. Because neither of these employers authorized TQSE for Mr. Leano, we deny the claim.

Background

At the conclusion of a 36-month tour with the Army in Vicenza, Italy, Mr. Leano, an Air Force procurement analyst, exercised his right to return to employment with the Air Force by taking a position at the Joint Base Pearl Harbor-Hickam (JBPHH) in Hawaii. In January 2018, the Army issued permanent change of station (PCS) orders to effectuate the return but the orders did not provide for TQSE.

On April 14, 2018, Mr. Leano moved into temporary housing in Hawaii and, in May 2018, moved into permanent housing. On April 18, 2018, Mr. Leano, apparently for the first time, inquired about TQSE with a JBPHH human resources (HR) specialist. The HR

specialist informed Mr. Leano that reimbursement of TQSE is discretionary, unless a civilian employee returns from a foreign area through the Department of Defense's Priority Placement Program. The HR specialist additionally explained that TQSE must be authorized before temporary lodging is occupied and may not be approved after the fact. In his claim, Mr. Leano, relying on 41 CFR 302-1.1, argues that employees are entitled to relocation expenses, including TQSE, when transferred to a new duty station at least 50 miles from the old duty station.

### Discussion

To be eligible for TQSE, among other requirements, the agency must authorize "it before [an employee occupies] temporary quarters." 41 CFR 302-6.7(a). Here, the Army's PCS orders did not provide for TQSE, and the Air Force had not authorized TQSE prior to Mr. Leano's stay in temporary quarters.

Notably, Mr. Leano incorrectly interprets 41 CFR 302-1.1 by asserting that employees are entitled to travel and relocation expenses when transferred to a new duty station at least 50 miles from the old duty station. 41 CFR 302-1.1 discusses eligibility for relocation benefits but does not describe TQSE as a mandatory benefit. Further, as noted by the Air Force, unless an employee is returning from a foreign area through the Department of Defense's Priority Placement Program, which Mr. Leano was not, TQSE is not an automatic benefit. *Nelson A. Kraemer*, CBCA 5017-RELO, 16-1 BCA ¶ 36,224, at 176,716.

### Decision

For the above-stated reasons, we deny the claim.

*Beverly M. Russell*  
BEVERLY M. RUSSELL  
Board Judge