



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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May 14, 2018

CBCA 6071-TRAV

In the Matter of PATRICK M. COTTON

Patrick M. Cotton, Washington, DC, Claimant.

Richie M. Langhorne-Queen, Travel Business Financial Manager, Naval Sea Systems Command, Department of the Navy, Washington, DC, appearing for Department of the Navy.

**SULLIVAN**, Board Judge

Claimant, Patrick M. Cotton, seeks reimbursement of late fees assessed on his government credit card in the amount of \$58.00. The agency, Department of the Navy, denied his request for payment of the fees because Mr. Cotton did not submit his voucher within five days of the end of his travel and Mr. Cotton was obligated to pay his credit card balance even if he had not received reimbursement. We grant the claim.

Background

Mr. Cotton returned from travel on August 9, 2017. Because he changed his travel arrangements during the trip, Mr. Cotton required approval of a revised travel authorization before he could submit his voucher requesting reimbursement of his travel expenses. Mr. Cotton's revised travel authorization was issued on August 25, 2017, and Mr. Cotton submitted his travel voucher on September 14, 2017. The agency returned the travel voucher to Mr. Cotton on September 18, 2017, requesting that Mr. Cotton attach receipts. Mr. Cotton resubmitted his travel voucher on September 30, 2017, and the agency again returned it and requested further information about a hotel charge for a room that Mr. Cotton did not use, due to his change in plans.

Mr. Cotton again submitted his travel voucher on November 17, 2017. He amended it on January 23, 2018, to add a request for reimbursement of the first late fee of \$29, and amended it again on February 23, 2018, to add the second late fee of \$29. The history page for the travel voucher submitted by the agency shows no action by the agency on Mr. Cotton's voucher between when he submitted it in November 2017 and when it was approved in March 2018.

In February 2018, the travel coordinator for the agency notified Mr. Cotton that his government credit card account was delinquent and that the credit card company had assessed late fees because the balance was more than seventy-five days overdue. In response to this notice, Mr. Cotton requested assistance in getting his outstanding voucher paid.

Mr. Cotton's voucher was approved on March 3, 2018, and paid on March 12, 2018. The only explanation in the record as to why it took the agency so long to review and approve the voucher concerns the charge for a hotel room that Mr. Cotton did not use. The agency does not contend that Mr. Cotton failed to properly cancel the room; instead, it appears that Mr. Cotton was charged in error and it took a long time for the agency to get the charge reversed.

### Discussion

Federal agencies are required by statute to reimburse employees within thirty days of submission of a proper voucher and to pay employees a late payment fee if they fail to do so. Travel and Transportation Reform Act of 1998, Pub. L. No. 105-264 § 2(e)(4), 112 Stat. 2350, 2352 (1998). The Federal Travel Regulation (FTR) reiterates this requirement:

#### **Will I receive a late payment fee if my agency fails to reimburse me within 30 calendar days after I submit a proper travel claim?**

Yes, your agency must pay you a late payment fee, in addition to the amount due you, for any proper travel claim not reimbursed within 30 calendar days of your submission of it to the approving official.

41 CFR 301-52.19 (2017). The FTR also directs that agencies calculate and pay two different late payment fees, one calculated as interest and the other equal to the late payment amount that the credit card company would charge:

#### **How are late payment fees calculated?**

Your agency must either:

- (a) Calculate late payment fees using the prevailing Prompt Payment Act Interest Rate beginning on the 31st day after submission of a proper travel claim and ending on the date on which payment is made; or
- (b) Reimburse you a flat fee of not less than the prompt payment amount, based on an agencywide average of travel claim payments; and
- (c) In addition to the fee required by paragraphs (a) and (b) of this section, your agency must also pay you an amount equivalent to any late payment charge that the card contractor would have been able to charge you had you not paid the bill.

41 CFR 301-52.20. The FTR also requires travelers to use government-issued travel charge cards to pay for costs of official government travel, 41 CFR 301-51.6, to submit their requests for reimbursement within five working days of returning from travel, 41 CFR 301-52.7 and, to pay the travel card bill in accordance with the cardholder agreement. 41 CFR 301-52.24.

In addition to the FTR, the Defense Travel Management Office has issued regulations and guidance regarding the use of government travel cards specific to Department of Defense (DOD) employees. These regulations require that the agency reimburse an employee for “authorized travel expenses no later than 30 days after submission of an accurate and complete travel claim” and pay late fees if the agency’s travel office does not reimburse the traveler within 30 days of submission of a claim:

Late Payment Fees and Charges. Should payment of the travel settlement take longer than 30 days following receipt by the office where the claim is approved, that office may be required to pay a late payment fee to the traveler. This fee is payable, using the Prompt Payment Act interest rate, beginning on the 31<sup>st</sup> day after the submission of a proper travel claim and ending on the date that the payment is disbursed by the government. The only exception to the requirement for this payment is that no payments are required for amounts less than \$1.00. . . . In addition, travelers may be reimbursed for late fees imposed by the travel card vendor if the non-payment that incurred the late fee was the result of the government’s untimely processing of the travel voucher.

Government Travel Charge Card Regulations: Authorized by DoDI 5154.31, Vol. 4, 4-26 and 4-27 (April 2018). If the travel claim is returned to the employee to be corrected, the thirty day period restarts with the receipt of the corrected claim. *Id.* Travelers seeking payment of late fees may submit supplemental travel claims:

Claims for Late Payment Fees. Payment of late fees must be calculated and paid at the time the voucher is processed. Travelers who believe that late payment fees were not included in the calculation of their travel vouchers may submit supplemental travel claims for late payment fees. Each supplemental travel claim will be submitted through the office where the claim is to be approved. That office will annotate the claim with the date that the original travel claim was received.

*Id.*

The agency owes Mr. Cotton the late fees he seeks. Neither the statutory mandate nor the regulatory requirements for the payment of late fees by the agency condition the payment of those late fees upon the timely submission of a travel reimbursement request or payment of the outstanding travel card balance. Instead, the requirement to pay the late fee runs from the date of submission of a proper claim.

Mr. Cotton submitted a proper claim, one on which the agency required no further information, on November 17, 2017. The agency was required to reimburse Mr. Cotton's travel claim on or before December 17, 2017. If the agency had reimbursed Mr. Cotton by December 17, the credit card company would not have assessed the late fees, which were charged on the 75th day that the bill was delinquent (January 23, 2018). Because the agency failed to meet its obligation to reimburse Mr. Cotton within the 30 days, it owes him the "amount equivalent to any late payment charge that the card contractor would have been able to charge you had you not paid the bill." 41 CFR 301-52.20(c). In this case, because Mr. Cotton did not pay his bill, the amount of the late fees is known (\$58) and it is this amount that the agency must pay.

#### Decision

The claim is granted.

Marian E. Sullivan  
MARIAN E. SULLIVAN  
Board Judge