



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 27, 2019

CBCA 6454-RELO

In the Matter of DAVID B. CORNSTEIN

David B. Cornstein, DPO Area Europe, Claimant.

Scott A. Tiedt, Director, Transportation and Travel Management Division,
Department of State, Washington, DC, appearing for Department of State.

O'ROURKE, Board Judge.

David B. Cornstein (claimant), a Department of State employee, appointed as the United States Ambassador to Hungary, requested review of the agency's denial of his airfare reimbursement in the amount of \$6536.61, for travel from his duty station in Hungary to the United States. Because that portion of claimant's travel was personal in nature, rather than for official business, we affirm the agency's decision.

Background

In accordance with claimant's permanent change of station (PCS) orders, claimant and his spouse traveled from their home in New York to his new post in Budapest, Hungary. The agency obligated \$13,189.60 to cover the estimated costs of their *one-way* business class travel to Budapest, consistent with agency regulations. Instead of using the Department of State's travel services to purchase the tickets, claimant purchased the tickets using his personal travel agent, which he was permitted to do. Claimant purchased two *round-trip* tickets from New York to Budapest, with a Paris stop-over in both directions, at a total cost of \$13,073.22.

On August 21, 2018, claimant requested reimbursement in the amount of \$13,073.22, (the price he paid for the round-trip tickets), which was \$116.38 less than what the agency

estimated in his PCS orders for one-way travel to Budapest. The Department of State's Transportation and Travel Management Division examined the request and determined that the return-flight portion of the round-trip ticket (from Budapest to New York) was not reimbursable because it was not related to his official duties. Therefore, the agency only approved reimbursement in the amount of \$6536.61—exactly half of the total round-trip airfare cost.

In his request to the Board, claimant stated that he was advised by agency representatives that he was authorized to purchase tickets up to the full amount of the orders. Claimant further noted that the total amount actually spent on the round-trip tickets was less than the amount authorized by his PCS orders.

Discussion

In determining travel reimbursements for Foreign Service operatives, the Department of State applies the Foreign Affairs Manual (FAM), 14 FAM 511.2-1, pursuant to 22 U.S.C. § 4081 (2012). While most agency travel regulations are subordinate to the Federal Travel Regulation (FTR), the FAM only incorporates the FTR where specifically indicated. 14 FAM 511.2; *see also Kristina Leszczak*, CBCA 6041-TRAV, 18-1 BCA ¶ 37,140, at 180,834 (citing *David C. Turnbull*, CBCA 5686-RELO, 17-1 BCA ¶ 36,864, at 179,619). According to the FAM, “Foreign Service employees and the members of their families are entitled only to actual and necessary expenses incurred in the performance of *official travel*.” 14 FAM 513.1 (emphasis added). Personal travel expenses are not eligible for reimbursement by the Department of State. *Id.*; 14 FAM 563.2.

Claimant does not contend that the return-trip expenses were associated with his official duties, but avers that the return trip should be reimbursed because the total costs incurred for the round-trip tickets were well within the cost limits of his travel authorization. The \$13,189.60 amount was not defined or explained anywhere on the PCS orders, and appellant appears to misunderstand the import of the travel authorization figure. *See Paul S. Hackett*, CBCA 2619-TRAV, 12-1 BCA ¶ 35,009, at 172,043. The relevant guidance states, “The amount of money the agency budgets for the travel does not signify approval of any or all travel costs incurred up to that amount. Authorized expenses are only those incurred in accordance with the regulations and applicable guidelines.” *Id.* There is no indication that the return-trip resulted in a benefit to the Department of State, nor did claimant state that the return trip portion of the travel was for official purposes. *See Carleton Bulkin*, CBCA 1511-TRAV, 09-2 BCA ¶ 34,143, at 168,788 (citing *James M. Cunningham*, CBCA 1106-RELO, 08-2 BCA ¶ 33,944, at 167,959-60).

Finally, while it is regrettable that claimant may have received incorrect or insufficient information about his entitlements prior to purchasing the tickets, the Board has long held that erroneous advice from agency employees does not overcome the requirement that travel funds be obligated consistent with pertinent law and regulations. Employee actions or inactions do not serve as a waiver of that requirement, nor do they grant the agency any discretion that the law itself does not authorize. *Charles A. Hines*, CBCA 4846-RELO, 16-1 BCA ¶ 36,392, at 177,428 (citing *Lisa A. Lindman*, CBCA 2893-RELO, 13 BCA ¶ 35,230, at 172,842).

Decision

For the foregoing reasons, we deny reimbursement of claimant's additional travel expenses.

Kathleen J. O'Rourke
KATHLEEN J. O'ROURKE
Board Judge