



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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January 7, 2020

CBCA 6525-RELO

In the Matter of KIM K. PHILLIPS

Kim K. Phillips, Fort Carson, CO, Claimant.

Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

**DRUMMOND**, Board Judge.

Kim K. Phillips, an employee of the Army Corps of Engineers, was issued permanent change of station (PCS) travel orders on February 7, 2019, for travel from her old duty station in Anchorage, Alaska, to her new duty station in Fort Carson, Colorado, with a report date of June 4, 2019. Along with other entitlements, she was offered a choice between having her temporary quarters subsistence expenses (TQSE) reimbursed on an actual expense basis or on a lump sum basis. Ms. Phillips elected TQSE on a lump sum basis TQSE(LS), and later submitted a travel voucher on March 19, 2019, to claim thirty days of TQSE(LS) in the amount of \$6000.

The agency processed and reimbursed the voucher based on 75% of the locality rate of Fort Carson, Colorado, for Ms. Phillips, and 25% for her one dependent listed on her travel orders. Ms. Phillips received \$4626.86 based on her initial TQSE(LS) submission. Ms. Phillips later asserted that she sold her home sooner than expected and requested that the agency retroactively increase her reimbursement by \$5640 based on the seasonal rate for Anchorage, Alaska, and different TQSE dates. The agency declined her request, explaining that she had already decided to receive TQSE(LS), filed a voucher, and received reimbursement at the Colorado rate, and now could not change her mind and be paid at the Alaska rate.

Ms. Phillips' does not dispute the agency's TQSE(LS) calculation. The issue in this case is whether Ms. Phillips may receive additional TQSE reimbursement because the lump sum payment is not adequate to cover her actual TQSE.

### Discussion

Ms. Phillips' claim is governed by both the Federal Travel Regulation (FTR) and the Joint Travel Regulations (JTR). *See Michael R. Lujan*, CBCA 4613-RELO, 15-1 BCA ¶ 36,096, at 176,235. The FTR implements the statute providing for TQSE. The JTR are the Department of Defense's rules implementing the FTR and must be construed consistently with the FTR. As described in the JTR, TQSE is "a discretionary, not mandatory, allowance" under the facts in this case. JTR 0542. The FTR provides that an employee may receive TQSE on a lump sum basis for up to thirty days, regardless of the employee's actual expenses. 41 CFR 302-6.200 (2018). The FTR further precludes an agency from authorizing additional TQSE reimbursement if the TQSE lump sum payment is not adequate to cover the employee's actual expenses. *Id.* 302-6.202.

Ms. Phillips' request to retroactively change her TQSE election and increase her TQSE reimbursement is denied. Here the agency reasonably determined that it could not reimburse Ms. Phillips' additional TQSE. As correctly observed by the agency, Ms. Phillips had already elected TQSE on a lump sum basis in March, submitted a voucher and received reimbursement for Colorado, and therefore cannot later change her mind and be paid at the Alaska rate. 41 CFR 302-6.202; *see Jeffrey D. Vance*, GSBCA 16016-RELO, 03-2 BCA ¶ 32,317, at 159,870-71. The agency cannot now authorize additional TQSE simply because the lump sum payment is not adequate to cover her actual TQSE. The agency properly utilized its discretion and made a determination to deny additional TQSE that was not arbitrary, capricious, or contrary to law. Ms. Phillips has not established a reason to revisit and alter the agency's determination.

### Decision

For the foregoing reasons, the Board affirms the agency's determination and denies the claim for additional TQSE.

*Jerome M. Drummond*  
JEROME M. DRUMMOND  
Board Judge

