



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 5, 2020

CBCA 6210-TRAV

In the Matter of KEVAN L. MULLINS

Kevan L. Mullins, San Rafael, CA, Claimant.

Ashley Silberhorn, Office of Chief Counsel, Internal Revenue Service, Department of the Treasury, Washington, DC, appearing for Department of the Treasury.

RUSSELL, Board Judge.

Claimant, Kevan L. Mullins, has filed two motions for reconsideration of the Board's decision, *Kevan L. Mullins*, CBCA 6210-TRAV, 19-1 BCA ¶ 37,344, denying his request for reimbursement of certain expenses related to two temporary duty assignments (TDY) taken by him in April 2018, the first to Los Angeles and the second to Boston. We deny both motions.

First Motion for Reconsideration

In general, Mr. Mullins' arguments in support of his first motion, including on the issues of the agency's constructive cost calculation and denial of his request for reimbursement of tip expenses incurred for holding and transporting his bags while on travel, are based on mere disagreements with the Board's decision, or on arguments that he previously made, that he could have previously made, or that are otherwise unpersuasive. None constitutes sufficient grounds for reconsideration. Board Rule 407 (48 CFR 6104.407 (2019)). Accordingly, Mr. Mullins' motion is denied due to failure to present additional information warranting reconsideration. *See, e.g., Richard A. Keele*, CBCA 3862-RELO, 14-1 BCA ¶ 35,733, at 174,902 (noting that the "[c]laimant present[ed] nothing new to

support his claim that could not have been presented previously, nor [was] the additional information . . . presented sufficient to warrant reconsideration of his claim”). Certain points raised by the motion are discussed below.

1. Travel Orders

Mr. Mullins argues that his travel orders are invalid because of the denial of compensatory travel time (CTT). He asserts that he “has an inalienable property interest in his non-duty time and he was clearly harmed via travel orders that caused a loss [of] non-duty time without CTT or pay.” However, “[c]laims involving federal civilian employees’ compensation . . . and leave are reviewed by the Director of the Office of Personnel Management (OPM).” *Gary L. Whited*, GSBICA 15324-RELO, 01-1 BCA ¶ 31,185, at 154,011 (2000); *see also Michael L. Pond*, GSBICA 16517-RELO, 05-1 BCA ¶ 32,930, at 163,112 (Board does not have jurisdiction to review agency’s denial of claimant’s request to be credited for annual leave); *Mary Ann Wilson*, GSBICA 14300-TRAV, 98-2 BCA ¶ 29,931, at 148,107 n.3 (Board held that it did not have jurisdiction to resolve claimant’s request for overtime allegedly arising from travel.). Accordingly, the Board has no jurisdiction to consider Mr. Mullins’ challenge to his travel orders based on denial of CTT.

2. Reliance on Employee Awards Program to Support Claim

In further support of his request for reconsideration, Mr. Mullins relies on provisions of the agency’s Internal Revenue Manual (IRM) discussing a program pursuant to which Internal Revenue Service (IRS) employees may receive cash awards for saving the agency money on common carrier and lodging costs while on official travel. *See* IRM 1.32.14. However, the requirements of this employee awards program are inapplicable to resolving the travel reimbursement matters in dispute in this claim. Instead, the Federal Travel Regulation (FTR) contains the controlling provisions concerning travel by federal government employees. *Jeffrey R. Herman*, GSBICA 13832-RELO, 97-1 BCA ¶ 28,704, at 143,320 (1996); *see also* IRM 1.32.11.1.1(1) (stating that “[t]he FTR is the governing document for temporary duty travel and transportation allowances for all IRS employees”). The IRM does include provisions supplementing the FTR for IRS specific policies and procedures where needed. IRM 1.32.11.1.1(1). However, these supplemental provisions are contained in the section of the IRM addressing employee TDY travel (also referred to as city-to-city travel in the IRM). IRM 1.32.11. Therefore, in resolving Mr. Mullins’ claim, we look to the FTR as the primary regulation and, where applicable, the section of the IRM governing TDY. Neither of these sources support his claim.

3. Expenses Incurred While in Palm Springs

We remain unpersuaded by Mr. Mullins' assertion that he should be reimbursed for expenses incurred while in Palm Springs, where he stayed between his Los Angeles and Boston trips, and from where he purportedly teleworked. "The FTR provides that an agency may pay only those travel expenses necessary for the transaction of official business." *Stanley R. Bush*, CBCA 2707-TRAV, 12-1 BCA ¶ 34,971, at 171,914 (citing 41 CFR 301-2.2). As explained in our previous decision, Mr. Mullins' decision to stay in Palm Springs was a personal choice, not one approved by his employer. Thus, the agency reasonably treated as non-reimbursable the parking expense and per diem sought by Mr. Mullins due to his stay in Palm Springs.

4. Baggage Fee

Claimant, in his motion for reconsideration, reasserts that he is entitled to reimbursement of an additional fee for a second checked bag. However, as noted in our previous decision, an agency may reimburse an individual for "[a]ll fees pertaining to the first checked bag . . . [and] charges relating to the second and subsequent bags may be reimbursed when the agency determines those expenses are necessary and in the interest of the Government." *Kevan L. Mullins*, 19-1 BCA at 181,606 (quoting 41 CFR 301-12.2(d)). "The time to seek and make such determinations is 'prior to commencing travel.'" *See Martin C. Kehoe*, CBCA 5844-TRAV, 17-1 BCA ¶ 36,879, at 179,761 (quoting *Thomas L. North*, CBCA 5442-TRAV, 16-1 BCA ¶ 36,531, at 177,949). Here, the record does not show that the agency itself reviewed the requirements of Mr. Mullins' work-related travels, and determined that it was necessary and in the best interest of the government for Mr. Mullins to travel in a manner that compelled incurrence of the disputed baggage fee. Absent such a determination, we find no error warranting overturning of the Board's decision on Mr. Mullins' claim for reimbursement of this fee.

Second Motion for Reconsideration

The Board issued the decision on Mr. Mullins' claim on May 8, 2019. On September 9, 2019, Mr. Mullins filed a second motion for reconsideration. The Board's rules state that a request for reconsideration "must be received by the Board within 30 calendar days after the date the decision was issued." Rule 407. Mr. Mullins filed his second motion for reconsideration outside of the time period allowed for the filing of such motions. Accordingly, the motion is dismissed as untimely.

Notwithstanding the untimeliness of the filing, we note that the investigative report submitted by Mr. Mullins with his second motion for reconsideration does not support

amendment or alteration of the Board's decision. The report includes a discussion of the receipts provided by Mr. Mullins to support his travel vouchers, and provides that the vouchered amounts match those on Mr. Mullins' government travel card. However, these issues – provision of receipts to support travel expenses and reconciliation of vouchered amounts – were not material to the Board's decision. Thus, even on the merits, reconsideration would be unwarranted.

Decision

Claimant's request for reconsideration is denied.

Beverly M. Russell
BEVERLY M. RUSSELL
Board Judge