



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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April 28, 2020

CBCA 6635-RELO

In the Matter of MICHAEL P. VOICH

Michael P. Voich, Washington, DC, Claimant.

Catharine Debelle, Assistant Counsel, HECSA–Office of Counsel, United States Army Corps of Engineers, Alexandria, VA, appearing for Department of the Army.

**RUSSELL**, Board Judge.

Claimant, Michael P. Voich, an employee with the United States Army Corps of Engineers (USACE), has asked the Board to review USACE’s decision to use a single rate for his period of travel, as opposed to the seasonal rates covering the period, to determine Mr. Voich’s temporary quarters subsistence expenses (TQSE) reimbursement. For reasons set forth below, we grant Mr. Voich’s claim.

Background

On July 19, 2019, Mr. Voich was issued a formal job offer, requiring him to move from Wiesbaden, Germany, to New Orleans, Louisiana, and then to Washington, D.C. His travel authorization was issued on July 24, 2019, and stated that a fixed amount of TQSE (as opposed to actual expense TQSE) would be applied. He subsequently submitted a travel voucher including a request for reimbursement of thirty days of TQSE. His official dates of travel were from August 26 to September 24, 2019. USACE paid \$255 for each of the thirty days of TQSE, which is the rate that was in effect at his new location for the period July 1 to August 31, 2019. USACE did not apply the other rate in effect during the period of Mr. Voich’s travels, specifically, \$327 per day, which covered September 1 to 24, 2019.

Mr. Voich brought this claim alleging that USACE incorrectly calculated his per diem by using a single rate instead of the multiple rates applicable to the travel period of August 26 through September 24, 2019. He seeks to recover \$1728, the amount that he believes is owed based on applying rates in effect during his entire period of travel.

### Discussion

Mr. Voich's 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. "The FTR implements the statute providing for TQSE." *Kim K. Phillips*, CBCA 6525-RELO, 20-1 BCA ¶ 37,496. "The JTR are the Department of Defense's rules implementing the FTR and must be construed consistently with the FTR." *Id.*

TQSE is a discretionary allowance intended to partially reimburse an employee for reasonable subsistence expenses incurred when it is necessary for the employee and/or the employee's dependents to occupy temporary lodging incident to a permanent change of station. *See* 41 CFR 302-6.2 (2019); JTR 053605. The JTR states the following about TQSE lump sum (LS), which is applicable to this matter:

TQSE (LS) is a fixed-payment amount that is always based on the locality per diem rate that is in effect at either the old PDS [permanent duty station] or new PDS on the date that the fixed offer was accepted. The applicable per diem rate is the one in effect on the day the civilian employee accepts the fixed-rate offer for the season in which the civilian employee travels, or a combination, depending on where temporary quarters will be occupied. For example, when a civilian employee accepts an offer in November for the following June, use the per diem rate in effect the following June.

JTR 054208; *see also* 41 CFR 302-6.11 (noting that an "agency will reimburse [an employee] for TQSE under the actual expense method unless it permits the 'lump sum' reimbursement method as an alternative.").

In denying Mr. Voich's claim, USACE cites *Randall Kallenbach*, CBCA 1813-RELO, 10-1 BCA ¶ 34,459, which states that the TQSE payment must "be based on the new PDS locality per diem rate when the offer is accepted by the employee." Although *Randall Kallenbach* is consistent with JTR 054208, the quoted provision is not dispositive to a determination on Mr. Voich's claim. We agree with Mr. Voich that, instead, the relevant focus is the provision in JTR 054208, which states that the correct per diem rate is "for the season in which the civilian employee travels." In *Ronald F. Lutrell*, CBCA 2189-RELO, 11-2 BCA ¶ 34,838, the Board confirmed that, under the predecessor provision to

JTR 054208, the agency should apply the per diem rate applicable for the season in which the employee travels that is in effect on the date that the employee accepts the fixed rate offer.

The per diem rates in effect at the time Mr. Voich signed his agreement were \$255 per day for the period July 1 to August 31, 2019; and \$327 for the period September 1 to September 30, 2019. Accordingly, consistent with these rates, Mr. Voich is entitled to a \$255 per diem rate for each day from August 26 to 31, 2019 (i.e., \$255 x 6), plus \$327 for each day from September 1 to 24, 2019 (i.e., \$327 x 24), for a total of \$9378. Mr. Voich does not dispute that USACE has already reimbursed him \$7650. Accordingly, Mr. Voich should be reimbursed an additional \$1728, the difference between what USACE already paid him and the actual amount to which he is entitled.

#### Decision

Mr. Voich's claim for TQSE reimbursement in the amount of \$1728 is granted.

Beverly M. Russell  
BEVERLY M. RUSSELL  
Board Judge