



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 10, 2020

CBCA 6572-RELO

In the Matter of AARON C. RUTLAND

Aaron C. Rutland, APO Area Europe, Claimant.

Sharon E. Seiber, Chief, Civilian Staffing Programs Division, Headquarters, Air Force Personnel Center, Department of the Air Force, Joint Base San Antonio-Randolph, TX, appearing for Department of the Air Force.

SOMERS, Board Judge (Chair).

Claimant, Aaron C. Rutland, a civilian employee with the Department of the Air Force, asks that we review the agency's decision rejecting his claim for excess baggage fees of \$375 dollars, which he incurred through a permanent change of duty (PCS) move from Virginia to Spandahlem Air Base, Germany. Mr. Rutland contends that his PCS orders contained misleading statements which caused him to believe the fees would be reimbursed:

Employees and dependents are authorized excess baggage not to exceed 2 checked bags at the maximum weight and size allowed per bag by the servicing transportation carrier. All receipts for excess baggage are required for reimbursement, regardless of dollar amount. The traveler should be financially prepared to pay for excess baggage charges while traveling. Other situations where excess accompanied baggage may or may not be authorized are outlined [in accordance with] JTR [Chapter]2, 020207(C)(1, 2).

Mr. Rutland points out that the Air Force agreed that the language is confusing and that the verbiage used on subsequent orders has been changed.

The agency's response stated that the Air Force did reimburse Mr. Rutland for the cost of eight bags (two per person) for his family of four.¹ Mr. Rutland, it contends, would have been advised about the limitation through standard PCS counseling. The Air Force points to Block 28 (AA) of his PCS orders, which states that "[a]lthough many circumstances are not specifically identified in the PCS briefing, it is the employee's responsibility to be familiar with the conditions and limitations on entitlements granted by statute and regulation." Finally, the Air Force noted that Mr. Rutland could have eliminated any out-of-pocket expenses by shipping his additional luggage to his next assignment, as permitted by his orders.

Discussion

Under section 301-12.2 of the Federal Travel Regulation (FTR), airline fees charged for checked baggage may be reimbursed as miscellaneous expenses. 41 CFR 301-12.2 (2018) (FTR 301-12.2). That section provides the following guidance with respect to what baggage expenses an agency is authorized to pay:

(a) Transportation charges for authorized excess;

. . . .

(d) All fees pertaining to the first checked bag. In addition, 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 (*see* §§ 301-70.300, 301-70.301). Travelers should verify their agency's current policies and procedures regarding excess baggage prior to traveling

FTR 301-70.300 and .301 provide that agencies should develop policies to limit payment of miscellaneous expenses to those that are necessary and in the interest of the Government, including who will determine when excess baggage is necessary for official travel.

The JTRs, which apply to Department of Defense (DoD) civilian employees, state that "fees for the first checked bag" will be reimbursed, as well as "[e]xcess accompanied baggage when it is authorized or approved. To be authorized or approved, the contents of

¹ Mr. Rutland suggests that the airline permitted two checked bags for free. The record is unclear as to whether the agency actually reimbursed him any fees for checked baggage.

the baggage must be required for the traveler's official duty and must not be available at the temporary duty location." JTR 020207-C.1, 2. Mr. Rutland's orders expressly stated that "employees and dependents are authorized excess baggage not to exceed 2 checked bags at the maximum weight and size allowed per bag."

Under the JTR, so long as "excess accompanied baggage" is both authorized and approved, reimbursement is appropriate. Notably, the JTR also specifies that in addition to being authorized and approved, the excess baggage must contain items that are "required for the traveler's official duty, and not available at the TDY location." It is unclear how this particular JTR applies in the circumstance, such as here, where the claimant is traveling from one location to another for a PCS move, rather than the TDY travel referenced in the regulation. Nor does the fact that Mr. Rutland's PCS orders enabled him to ship additional baggage to his new permanent duty location change the fact that his orders expressly authorized him to ship excess baggage.

"As a general rule, once travel is authorized, the employee's right to reimbursement of travel costs vests as the travel is performed, and 'valid travel orders cannot be revoked or modified retroactively, after the travel is completed, to decrease rights that have already become fixed.'" *Shamika S. Rice*, CBCA 6028-TRAV, 18-1 BCA ¶ 37,150, at 180,853 (quoting *Douglas W. Morris*, CBCA 5574-TRAV, 17-1 BCA ¶ 36,664, at 178,542 (quoting *Renee Cobb*, CBCA 5020-TRAV, 16-1 BCA ¶ 36,240, at 176,819). "The rule applies unless there was an error on the face of the orders or the orders were clearly in conflict with a law, regulation, or agency instruction." *Douglas W. Morris*, 17-1 BCA at 178,543 (citing *Jeffrey E. Koontz*, CBCA 3251-TRAV, 13 BCA ¶ 35,318, at 173,372). There is no evidence in the record to suggest that the authorization was erroneous. Nor did the authorization conflict with any law, regulation, or agency instruction. Although the agency justified its actions based on a provision of the JTR, for reasons already discussed, we are not persuaded that it applies here.

Decision

The claim is granted.

Jeri Kaylene Somers
JERI KAYLENE SOMERS
Board Judge