



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 21, 2021

CBCA 7043-RELO

In the Matter of JOSEPH H.

Joseph H., Claimant.

Tracey Z. Taylor, Assistant Center Counsel, Humphreys Engineer Support Activity, United States Army Corps of Engineers, Alexandria, VA, appearing for Department of the Army.

SULLIVAN, Board Judge.

Claimant seeks review of the denial by the United States Army Corps of Engineers (agency) of his request for an additional thirty days of temporary quarters subsistence expense (TQSE) allowance following his transfer from Korea to South Carolina. Because claimant no longer occupied temporary quarters during the time for which the allowance is sought, we deny the claim.

Background

Claimant was issued orders in April 2019 to relocate pursuant to the Department of Defense (DOD) Priority Placement Program (PPP). Those orders were amended twice—in May 2019, to add an allowance for TQSE for sixty days, and in July 2019, to extend the allowance by thirty days. Although claimant moved into his home in August 2019, claimant seeks payment of an additional thirty days in an amount of \$5249.90, because all of his household goods had not been delivered and he did not have any major appliances in the home.

Discussion

Statute requires that “an agency shall pay to or on behalf of an employee who transfers in the interest of the Government, a per diem allowance or the actual subsistence expenses, or a combination thereof, of the immediate family of the employee for en route travel of the immediate family between the employee’s old and new official stations.” 5 U.S.C. § 5724a(a) (2018). Regulations implementing this statutory requirement provide that the provision of benefits is limited to sixty days unless the “agency determines that there is a compelling reason for you to continue occupying temporary quarters,” in which case the agency “may authorize an extension of up to [sixty] additional consecutive days.” 41 CFR 302-6.104 (2018). DOD regulations further provide that the authorizing official “may authorize extensions only if he or she determines there are compelling reasons for the continued temporary lodging occupancy due to circumstances beyond the civilian employee’s control.” Joint Travel Regulation (JTR) 054206-A.2 (Apr. 2019).

Claimant acknowledges that he lived in his permanent residence during the period for which he seeks TQSE, but it was less than habitable since all of his household goods had not been delivered. The Board has held repeatedly that, once a claimant moves into his or her permanent residence, the entitlement to TQSE ends even if all household goods have not been delivered. *Marc J. Shaw*, CBCA 3040-RELO, 13 BCA ¶ 35,216; *Scott D. Hurst*, CBCA 2323-RELO, 12-1 BCA ¶ 35,040 (2011); *James H. Fish*, CBCA 891-RELO, 08-1 BCA ¶ 33,726 (2007).

Claimant also asserts that, pursuant to JTR 054204, the payment of TQSE allowance is not discretionary because he was transferred as part of the PPP. Claimant is correct that JTR 054204 states that “TQSE is a non-discretionary allowance and the gaining activity must authorize and pay it when the civilian employee meets the eligibility requirements.” However, that provision states that the authorization of TQSE is subject to the limitations in JTR 054206-A, which further limits the exercise of that authority to situations in which the employee remains in temporary lodging. Claimant lived in his permanent residence during the period for which he seeks an additional thirty day TQSE allowance. Pursuant to regulation, the authorizing official could not authorize additional TQSE payments.

Decision

The claim is denied.

Marian E. Sullivan
MARIAN E. SULLIVAN
Board Judge