



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 5, 2024

CBCA 8037-RELO

In the Matter of TIMOTHY B.

Timothy B., Claimant.

Aaron Pound, Office of General Counsel, General Services Administration, Washington, DC; and Dawn C. Cook, Accountant, Pegasys Financial Services, Financial Information and Operations Division, Office of the Chief Financial Officer, General Services Administration, Kansas City, MO, appearing for General Services Administration.

BEARDSLEY, Board Judge (Chair).

The claimant, an employee of the General Services Administration (GSA), claims interest on temporary quarters subsistence expenses (TQSE). For the reasons discussed below, claimant is not entitled to interest.¹

Background

On February 9, 2024, the claimant provided the agency with vouchers and other documents to support the reimbursement of TQSE following this Board's decision in Timothy B., CBCA 7921-DBT (Feb. 2, 2024).² The claimant's reimbursement request form

¹ This case is decided by the Board pursuant to its authority by GSA to decide claims by federal employees for reimbursement of expenses incurred while on official temporary duty travel or in connection with relocation to a new duty station. *See* 31 U.S.C. § 3702 (2018).

² The Board decided CBCA 7921-DBT in a pre-offset paper hearing pursuant to 41 CFR 105-56.009 (2022), finding that petitioner was entitled to TQSE for his wife and

for TQSE indicated that he did not select the lump sum payment option but instead elected to be paid on an actual expense basis. On February 17, 2024, GSA paid the claimant for the TQSE requested in the vouchers. GSA, however, denied the claimant's request for interest on the TQSE.

Discussion

The claimant asserts entitlement to interest, in the amount of \$953.06,³ as a result of GSA's delay in reimbursing him for TQSE. "The Supreme Court established in *Library of Congress v. Shaw*, 478 U.S. 310 (1986), that 'interest cannot be recovered in a suit against the Government in the absence of an express waiver of sovereign immunity from an award of interest.'" *Nicholas J. Thacker*, CBCA 4981-RELO, 16-1 BCA ¶ 36,231, at 176,765 (quoting *Shaw*, 478 U.S. at 311). "This bar against the recovery of interest from the Federal Government includes interest for delays in payments of travel and relocation claims, unless the Government has expressly waived its sovereign immunity from an award of interest." *William V. Kinney*, CBCA 5861-TRAV, 18-1 BCA ¶ 37,184, at 180,996 (citing *Shaw*, 478 U.S. at 311; *Thacker*, 16-1 BCA at 176,765; and *Synita Revels*, GSBCA 14935-RELO, 00-1 BCA ¶ 30,716, at 151,709-11 (1999), *motion for reconsideration denied*, 00-1 BCA ¶ 30,896), *motions for reconsideration denied*, 19-1 BCA ¶ 37,273.

Congress, in the Travel and Transportation Reform Act of 1998, waived sovereign immunity by granting interest on certain travel expenses not paid within thirty calendar days after the employee submits a proper travel claim to his agency's designated approving office. Pub. L. No. 105-264, § 2(g), 112 Stat. 2350, 2352 (1998); *see* 41 CFR 301-52.17 (2023). However, TQSE paid on an actual expense basis, like here, is exempt from this sovereign immunity waiver. 41 CFR 301-52.17(d) (exempting claims for TQSE not paid as a lump sum). The claimant, therefore, cannot recover interest on his TQSE.

Claimant contends that he is entitled to interest on his TQSE pursuant to the Back Pay Act, 5 U.S.C. § 5596 (2018), and corresponding regulations. Pursuant to 5 CFR 550.801(a), employees that "have been affected by an unjustified or unwarranted personnel action that resulted in the withdrawal, reduction, or denial of all or part of the pay, allowances, and differentials otherwise due" are entitled to "back pay, interest, and reasonable attorney fees." This interest-mandating provision, however, does not apply to this claim because

children, and GSA failed to prove that petitioner owed a debt. The Board held further that petitioner was entitled to reimbursement for the cost of the authorized pre-departure temporary quarters claimant and his family occupied in December 2022.

³ The record is unclear as to how this amount was calculated.

“reimbursements of relocation expenses [are] not ‘pay, allowances or differentials’ under the Back Pay Act.” *Revels*, 00-1 BCA at 152,468.

Moreover, this Board is not the appropriate authority to hear a claim under the Back Pay Act. An “[a]ppropriate authority means an entity having authority in the case at hand to correct or direct the correction of an unjustified or unwarranted personnel action,” and the regulation lists various entities, “including (a) a court, . . . [various federal entities], and (j) the head of the employing agency or another official of the employing agency to whom such authority is delegated.” 5 CFR 550.803. The Board, however, is not identified as an appropriate authority, and the head of GSA has not delegated this authority to the Board. *Id.*

Decision

The claim is denied.

Erica S. Beardsley
ERICA S. BEARDSLEY
Board Judge