



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 11, 2025

CBCA 8241-RELO

In the Matter of NHIA X.

Nhia X., Claimant.

Katharina Prignitz, Management Support Specialist, Personnel Administration Office, Headquarters and Headquarters Company, 2d Theater Signal Brigade, United States Army Europe and Africa, APO Area Europe, appearing for Department of the Army.

BEARDSLEY, Board Judge (Chair).

The claimant seeks review of the Army's denial of temporary quarters subsistence allowance (TQSA) for temporary lodging and meal expenses incurred prior to a permanent change of station (PCS) departure from outside of the continental United States (OCONUS) to the continental United States (CONUS). We grant the claim in part.

Background

The claimant submitted a request for reimbursement of TQSA for July 15 to July 23, 2024. On July 12, the claimant completed out-processing from his post. Thereafter, he vacated his OCONUS residence and moved into temporary quarters prior to departing for his new CONUS assignment. From July 15 through July 21, the claimant and his family stayed in temporary quarters 108 miles (or a two-hour drive) from his post. From July 22 through July 23, the claimant and his family stayed at a hotel much closer to his post.

The Army denied TQSA for the claimant's July 15 through July 21 temporary quarters because they were located more than fifty miles from and not in reasonable proximity to his duty post. The Army indicated that it would reimburse claimant's TQSA for July 22 and 23 after it received corrected paperwork. The corrected paperwork required

that the claimant: (1) use the official exchange rate to calculate his costs; (2) provide a Value Added Tax (VAT) form for his lodging costs; and (3) delete costs for alcoholic beverages from his meal receipts. The Army also asserted that the claimant had claimed excessive costs for meals for a family of three (claimant, spouse, and ten-year-old child), specifically denying reimbursement for a July 23 meal in the amount of \$327.15.

Discussion

I. The Cost of Temporary Quarters

The Joint Travel Regulations (JTR), which are applicable to the claimant, defer to the Department of State Standardized Regulations (DSSR)¹ for TQSA. JTR 054205 (July 2024). The DSSR defines TQSA as an “allowance granted to an employee for the *reasonable* cost of temporary quarters, meals and laundry expenses incurred by the employee and/or family members.” DSSR 121, Definition (emphasis added); *see also* 5 U.S.C. § 5923(a)(1) (2018). The DSSR further states that “[t]he location of the temporary quarters must be within reasonable proximity of the post.” DSSR 125, Determination of Rate.

The Army denied the claimant’s request for TQSA for July 15 through July 21 because the claimant stayed in temporary quarters more than fifty miles from his post. The Army relied on the U.S. Army Overseas Allowances and Differentials Guide, Overseas Benefits Branch–Europe (OBB Guide), which states that “[t]he location of the temporary quarters must be within reasonable proximity of the post (i.e. no more than 50 miles / 25 for HQ USARMY USAREUR AF and subordinate commands).” Agency’s Response, Enclosure 1 (OBB Guide) at 13. However, “[t]his Board has recognized that neither statute nor the DSSR ‘draws a concentric circle around the site noted on the travel orders and provides that any lodging outside of a certain mile limit from center city is not allowable.’” *Annette M. Zapf*, CBCA 3788-RELO, 14-1 BCA ¶ 35,754, at 174,960 (quoting *Yong-Hee Andrean*, CBCA 2632-TRAV, 12-2 BCA ¶ 35,076, at 172,273) (allowing TQSA reimbursement for temporary quarters located an hour’s drive, but within commuting distance, of her duty station). Instead, “[a]s illustrated by this Board’s previous decisions,

¹ “The President has delegated to the Secretary of State authority to issue regulations which implement statutes providing for overseas pay differentials and allowances, including TQSA.” *David R. Bienvenue*, CBCA 4983-RELO, 16-1 BCA ¶ 36,286, at 176,958 (quoting *Okyon Kim Ybarra*, GSBCA 15407-RELO, 01-1 BCA ¶ 31,334, at 154,762); *see* Exec. Order No. 10,903, § 2, *reprinted as amended in* 5 U.S.C. § 5921 app. (2012). “Those regulations are set forth in the Department of State DSSR, which ‘have the force and effect of law.’” *Bienvenue*, 16-1 BCA at 176,958 (quoting *Gordon D. Giffin*, GSBCA 14425-RELO, 98-2 BCA ¶ 30,100, at 148,955).

a determination of ‘reasonable proximity of the post’ must consider the employee’s ability to commute the distance between the place of TQSA to the duty station and back within a reasonable time.” *David R. Bienvenue*, CBCA 4983-RELO, 16-1 BCA ¶ 36,286, at 176,959.

The claimant maintains that his temporary quarters, two hours away, were in reasonable proximity to his post because he had completed out-processing and had no need to return to his post. The claimant, nonetheless, returned to his post on three occasions to obtain medical documents.

Although the Army cannot establish a hard-and-fast rule that temporary quarters more than fifty miles from post are not in reasonable proximity, the Army can determine that temporary quarters 108 miles from the claimant’s post are not within commuting distance of or in reasonable proximity to the claimant’s post. “The agency is vested with discretion to determine what constitutes reasonable proximity from a given post at a given time.” *Kurt M.*, CBCA 7687-RELO, 23-1 BCA ¶ 38,407, at 186,619 (upholding the agency’s determination that lodging locations of seventy-eight to 162 miles from the permanent duty station were not in reasonable proximity to the post of duty); *see also John Chris Paitson*, CBCA 5551-RELO, 17-1 BCA ¶ 36,719, at 178,807 (finding, as reasonable, the Army’s determination that temporary quarters, located approximately ninety-three miles or more from the duty station, were not in reasonable proximity to the duty post). The fact that the claimant did not anticipate a need to return to post—even though he did, in fact, return several times for medical records—does not eliminate the requirement to stay in temporary quarters in reasonable proximity to one’s post in order to receive TQSA.

The claimant also contends that his temporary quarters provided safety, transportation options, spacious rooms for baggage storage, and medical services that he could not obtain closer to his duty post and that the cost was below the per diem, making these quarters the best choice for him and his family. He maintains that he would have stayed in a different location had he known about the limit in distance. The claimant’s reasons for choosing the temporary quarters, however, are not relevant to a TQSA determination and “do not alter the language of the DSSR and the explicit limitations therein.” *Paitson*, 17-1 BCA at 178,807. Because the claimant’s temporary quarters location was beyond a normal commute and not in reasonable proximity to his post, the claimant is not entitled to TQSA for his stay in temporary quarters from July 15 through July 21.

II. Sick Leave Use During TQSA Period

The claimant asserts that the Army denied his TQSA because the “utilization of sick leave during the TQSA period is not permissible.” Although the Army did not deny the claimant’s TQSA for reasons related to sick leave, it did question the claimant’s use of sick leave during the time period for which the claimant claimed TQSA. We, however, do not

have the authority to resolve issues related to the use of sick leave. Our authority is limited to deciding claims for reimbursement of expenses incurred while on official temporary duty travel or in connection with relocation to a new duty station. Rule 401 (48 CFR 6104.401 (2024)).

III. The Use of DSSR 120 TQSA Worksheet

The DSSR states that “Section 960 TQSA Worksheet may be used to support a TQSA claim.” DSSR 125. The section 960 worksheets are comprised of the “TQSA - Temporary Quarters Subsistence Allowance Worksheet (DSSR 120)” and the TQSA Actual Expense Worksheet (DSSR 120) (collectively the TQSA Worksheets). DSSR 960 Worksheets/Exhibits. The TQSA Worksheets refer employees to “their agency-specific regulations in addition to DSSR section 120 to compute the TQSA which should be claimed on Standard Form (SF) 1190 (‘Foreign Allowances Application, Grant and Report,’ Rev. 1/98).” *Id.* The Army’s OBB Guide, its agency-specific regulation, requires that the claimant provide a “[d]igitally completed and signed DSSR 120 – TQSA Worksheet” to settle TQSA expenses. OBB Guide at 13. The Army, therefore, can and does require the use of the TQSA Worksheets.

IV. The Exchange Rate

The claimant contends that he should be allowed to use the Citibank Government Travel Charge Card (GTCC) exchange rate instead of the U.S. Army Euro XE rate used by the TQSA exchange rate calculator. The OBB Guide, however, states that employees “*must use* [the Army-specified] exchange rate calculator” and explains that these “[e]xchange rates will be entered on the DSSR 120 [TQSA Worksheets].” OBB Guide at 14 (emphasis added). “The worksheet will automatically convert the foreign currency amounts you provided . . . to [United States dollars].” *Id.* at 15.

The claimant contends that the JTR’s adoption of the “Government Travel Charge Card (GTCC) Regulations in [Department of Defense Instruction] 5154.31, Vol. 4” that require a “traveler to use the individually billed GTCC account to pay for all authorized expenses related to Government travel” allows claimant to receive reimbursement at the GTCC’s exchange rate. *See* JTR 010204. The JTR, however, does not mention the use of the GTCC’s exchange rate to calculate TQSA reimbursement. Since the TQSA Worksheets point the claimant to its agency-specific regulation to compute TQSA, the claimant must use the U.S. Army specified exchange rate calculator to convert foreign currency for purposes of TQSA.

V. VAT Form Usage

The OBB Guide states that VAT forms are “[r]equired if your temporary quarters are on the economy” and that “VAT Forms: If you’re staying off Post/Base on the German economy, please be advised that VAT forms will be required.” OBB Guide at 2, 13. “Employees drawing TQSA must use AE Form 215-6B, commonly known as a ‘VAT Form,’ to exclude taxes from commercial lodging expenses where possible.” *Id.* at 30; Army in Europe Regulation (AER) 690-500.592 12.a.1 (Sept. 2018). However, if VAT relief forms are not accepted by the hotel, “the employee will submit a statement from the lodging source to that effect, along with a TQSA claim.” *Id.* The claimant, therefore, should provide the VAT forms if the hotel accepted VAT relief forms, but, if not, failure to provide the VAT forms is not a basis for denial of TQSA.

VI. Alcoholic Beverages

The Army requested that the claimant remove the alcoholic beverage costs from his meal receipts. The claimant deems altering meal receipts to remove alcoholic beverage costs as “compromising the integrity of financial documentation.” The JTR’s per diem definition for meal allowances states that “[m]eals do not include expenses incurred for alcoholic beverages.” JTR, Appendix A: Definitions and Acronyms, Per Diem Allowance, Section B. Moreover, “[t]he agency’s decision to not reimburse the costs of alcoholic beverages incurred during an employee’s TQSA period comports with the discretionary guidelines in the DSSR and the JTR that such costs must be reasonable and necessary.” *Daniel Rea*, CBCA 6059-RELO, 18-1 BCA ¶ 37,168, at 180,934. It is not unreasonable for the Army to require that the claimant delete the alcoholic beverage costs from his meal receipts.

VII. Excessive Meal Costs

The claimant takes issue with the agency’s determination that some of his meal costs—specifically, his meal on July 23 in the amount of \$327.15—were excessive. He contends that the Army must demonstrate that these meal costs are unreasonably high.

[T]he agency must have some evidence to show that a claimant’s expenses are unreasonably high. *See Lynn A. Ward*, CBCA 2904-RELO, 13 BCA ¶ 35,276, at 173,152 (allowing agency to question costs claimed based on audit averaging all other TQSA claims paid during same fiscal year to similar size families); *Donald Mixon*, GSBICA 14957-RELO, 00-1 BCA ¶ 30,606, at 151,117 (1999) (“If an agency is inclined to provide some reimbursement under these circumstances, it may, but is not required to, do so on the basis of statistical data that it deems appropriate for the area.”). Where an agency identifies no reason to question a claimant’s certified statements, makes no

effort to investigate, or shows no evidence of fraud, it does not meet its burden. *See Ybarra*, 01-1 BCA at 154,763.

Nhia Xiong, CBCA 5464-RELO, 17-1 BCA ¶ 36,644, at 178,464 (finding entitlement to reimbursement for amounts claimed for meals because the Army did not submit any evidence to show that the claim was extravagant in comparison with spending by other families in the same area or provide any other legitimate reasons to deny reimbursement). The JTR states that “TQSA assists on covering the cost of temporary lodging, plus *reasonable* meal and laundry expenses.” JTR 054205 (emphasis added). The DSSR aligns with the JTR by stating that TQSA is “an allowance granted to an employee for the *reasonable* cost of . . . meals,” DSSR 121, Definition, and “[t]he rate at which [TQSA] may be granted shall be the total amount of the *reasonable* . . . expenses . . . for meals, including tax, service charges and tips.” DSSR 125, Determination of Rate (emphasis added).

The Army maintains that the meal costs in question were unreasonably high for a family of three, including a ten-year old, but provides no evidence to support this position. Even though the claimant indicated that his family’s meal on July 23 was for a celebration, there is no evidence that the cost was more than that spent by similarly situated families or was extravagant or unreasonable. The challenged meal costs must be reimbursed.

Decision

We deny the claim, except the claimant is entitled to TQSA for the challenged meal costs and for July 22 and 23, once he submits the corrected paperwork.

Erica S. Beardsley
ERICA S. BEARDSLEY
Board Judge