



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 9, 2008

CBCA 955-TRAV

In the Matter of FELICE PACE

Felice Pace, Klamath, CA, Claimant.

John Corbett, Senior Counsel, Office of the Tribal Attorney, Yurok Tribe, Klamath, CA, appearing for the Yurok Tribe.

PARKER, Board Judge.

On his last day of employment with the Yurok Tribe in Klamath, California, Felice Pace filed a claim for reimbursement for mileage associated with the use of his privately-owned vehicle. The Tribe denied the claim because a General Services Administration (GSA) vehicle was available and, according to tribal policy, if an employee chooses to use his or her own car when a government car is available, there can be no mileage reimbursement. Mr. Pace has asked the Board to review the Tribe's decision.

Discussion

The Tribe has moved to dismiss the matter for lack of jurisdiction on two bases: (1) the Tribe has not waived its sovereign immunity with respect to Board review of its travel-related decisions, and (2) in any event, the Board is only empowered to review decisions on claims filed by federal civilian employees, and Mr. Pace was a tribal employee, not a federal employee.

The Tribe is correct that the Board may not entertain Mr. Pace's request for review. Our authority to resolve travel claims is based on statute and a delegation from the Administrator of General Services. The statute is 31 U.S.C. § 3702(a)(3) (2000), which provides, "Except as provided in this chapter or another law, . . . [t]he Administrator of General Services shall settle claims involving expenses incurred by Federal civilian

employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station.” The Board’s delegation is to exercise the Administrator’s power in this regard. *Kenath O. Traegde*, GSBCA 16842-TRAV, 06-2 BCA ¶ 33,303; *James W. Rorie, Sr.*, GSBCA 16801-RELO, 06-1 BCA ¶ 33,281.

A person employed by an Indian tribe is not a federal employee for travel and relocation purposes. *See Terrance A. Reedy*, GSBCA 16797-RELO, 06-2 BCA ¶ 33,307. Accordingly, because Mr. Pace was not (nor does he claim to have been) a federal civilian employee, the Board is not empowered to review his claim against the Tribe. The fact that the Tribe has an arrangement with GSA that allows the Tribe access to government vehicles cannot confer jurisdiction where none exists.

We need not reach the Tribe’s argument with respect to sovereign immunity.

Decision

The case is dismissed.

ROBERT W. PARKER
Board Judge