UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 5, 2012

CBCA 2917-TRAV

In the Matter of JOHN A. FABRIZIO

John A. Fabrizio, Davenport, FL, Claimant.

Todd A. Barreca, Accounting Officer, Naval Air Warfare Center Training Systems Division, Department of the Navy, Orlando, FL, appearing for Department of the Navy.

McCANN, Board Judge.

John A. Fabrizio, an employee of the Naval Air Warfare Center, is claiming $434.75 in mileage reimbursement in addition to what was allowed by the agency. Mr. Fabrizio, while on official temporary duty travel, elected to stay at hotels and to eat at dining facilities at remote locations. The agency, in refusing to fully reimburse Mr Fabrizio, contends that Mr. Fabrizio would not have incurred these extra expenses if he were a prudent person traveling for personal business. It asserts that Mr. Fabrizio violated several regulations.

The Naval Air Warfare Center indicates that Mr. Fabrizio, as a non-professional employee of the agency's Training Systems Division at Orlando, Florida, is a member of a collective bargaining unit. That unit, American Federation of Government Employees Local 2113, entered into a collective bargaining agreement (CBA) with the command in October 1998. The CBA remains in effect today. Mr. Fabrizio has not disputed that he is a member of the collective bargaining unit. Due of the existence of the CBA, the Navy moves to dismiss this case on the ground that the Board lacks the authority to hear it.

We have often stated our position on cases involving CBAs and recently reiterated it in *Kelly A. Williams*, CBCA 2840-RELO, 12-2 BCA ¶ 35,116, at 172,437:

> The Civil Service Reform Act provides that generally, collective bargaining agreements between unions and agency management are to provide procedures for the settlement of grievances, and with limited exceptions, the procedures set out in such an agreement "shall be the exclusive administrative procedures for resolving grievances which fall within its coverage." 5 U.S.C. § 7121(a)(1) (2000). The Court of Appeals for the Federal Circuit has consistently held that this law means if a matter is arguably entrusted to a grievance procedure, no review outside that procedure may take place unless the parties to the agreement have explicitly and unambiguously excluded that matter from the procedure. *Dunklebarger v. Merit Systems Protection Board*, 130 F.3d 1476 (Fed. Cir. 1997)*; Muniz v. United States*, 972 F.2d 1304 (Fed. Cir. 1992); *Carter v. Gibbs*, 909 F.2d 1452 (Fed. Cir. 1990) (en banc). Decisions by this Board and its predecessor in settling claims by federal civilian employees for travel and relocation expenses, the General Services Board of Contract Appeals, have consistently applied the statute, as interpreted by the Court of Appeals, to dismiss claims whose resolution is governed by provisions of collective bargaining agreements. *E.g.*, *Margaret M. Lally*, CBCA 791-TRAV, 07-2 BCA ¶ 33,713; *James E. Vinson*, CBCA 501-TRAV, 07-1 BCA ¶ 33,502; *Rebecca L. Moorman*, GSBCA 15813-TRAV, 02-2 BCA ¶ 31,893; *Bernadette Hastak*, GSBCA 13938-TRAV, et al., 97-2 BCA ¶ 29,091.

Daniel T. Garcia, CBCA 2007-RELO, 10-2 BCA ¶ 34,468 (quoting *Rafal Filipczyk*, CBCA 1122-TRAV, 08-2 BCA ¶ 33,886); *see also Robert Gamble*, CBCA 1854-TRAV, et al., 11-1 BCA ¶ 34,655.

The collective bargaining agreement applicable to Mr. Fabrizio defines a grievance as "[a] complaint by an employee, the Union, or the Employer concerning any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment or a claim of breach of the Agreement." The agreement also provides: "Except as provided in Sections 2 and 3 of this Article, this grievance procedure shall be the exclusive procedure available to the Union, Employer and the bargaining unit employees for resolving such grievances."

Mr. Fabrizio argues that the Navy has improperly applied the Defense Department's Joint Travel Regulations in denying his reimbursement for travel costs. However, the

Government's travel regulations are considered to affect conditions of employment. *See Williams*, 12-2 BCA at 172,438. Accordingly, unless the claimed violations of the regulations are explicitly excluded from the procedures contained in the CBA, this claim must be processed under the CBA. Nothing in sections 2 or 3 or any other section of the CBA excepts claims for travel reimbursement.

Accordingly, we dismiss this case.

R. ANTHONY McCANN
Board Judge