



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 19, 2014

CBCA 3864-TRAV

In the Matter of THEODORE T. MCHUGH

Theodore T. McHugh, FPO, Area Pacific, Claimant.

Michael A. Dunn, Division Chief, Programs and Policy Branch, Military Surface Deployment and Distribution Command, Department of the Army, Scott Air Force Base, IL, appearing for Department of the Army.

ZISCHKAU, Board Judge.

The claimant, Theodore T. McHugh, seeks to have invalidated notices of collection relating to expenses for a pre-authorized rental car upgrade, prepaid fuel for the car, and excess baggage. These expenses were incurred during temporary duty (TDY) travel in August through October 2012. The voucher amounts were approved by his approving official and paid. Approximately a year later, when the claimant was in the process of transferring from the Department of the Army to the Department of the Navy, an auditor with the Military Surface Deployment and Distribution Command (SDDC) determined that additional justifications were needed for these expenses. The claimant's vouchers were reopened, amended with justifications, re-submitted, and again approved. As a result of the re-submission, it was determined that the claimant should receive an additional \$41.59 for reasons unrelated to the issues here. His clearance audit was approved and he transferred to the Navy. A second audit was conducted by an auditor in the SDDC Programs and Policy Branch, who determined that the additional justifications from the claimant's agency command previously submitted were inadequate. The command was directed to provide additional justifications or "corrections" would be entered. In other words, the questioned amounts would be charged back to the claimant through notices of collection. Notices of collection subsequently were issued totaling at least \$776.52. We conclude that the rental car upgrade, prepaid fuel, and excess baggage expenses were adequately justified and properly approved by the approving official, and, accordingly, we sustain the claim and direct that any notices of collection regarding these items be withdrawn.

Regarding the rental car upgrades, Mr. McHugh had requested in his travel requisitions an upgrade from the standard compact size car because his legs were too long to safely operate a compact car, since he is over six feet, four inches tall. He received pre-approval for these requests in his original travel orders, and he subsequently received further approvals during the voucher submission process and again during the first audit review process approximately ten months after his travel. The following justification comment is found in the record: "Traveler is over 6'4" and legs are too long for compact cars. A compact car does not allow him to drive safely. AO approved."

Regarding Mr. McHugh's decision to chose the rental company's prepaid fuel option, he states that the prepaid fuel option was appropriate because his return flights departed San Francisco at 6 a.m., he had to depart his lodging at approximately 3 a.m. to arrive at the airport at a proper time before flight departure, and fuel stations generally were not open on his route prior to 6 a.m. The justification comments supporting the authorizing official's approval made essentially the same points.

Regarding excess baggage expenses, Mr. McHugh and the approving official provided the following justification: "Personnel take two bags as they are required to take Personal Protective Equipment (PPE), rain and cold weather gear, winter parka and other winter clothing. The TDY location does not provide any of this. Excess baggage due to mission requirements. AO approved."

Electronic mail from the SDDC Programs and Policy Branch official contains the following rationale for questioning the justifications and the notices of collection:

I've read thru the new entries. I think where we're not connecting is the AO – not the traveler – needs to enter the justification. The AO is authorizing a variation to established travel [p]olicies and the AO needs to provide the justification. The underlying rationale is we were [sic] see way, way too many vouchers where [t]he AO had clearly pencil-whipped it without ever looking at anything. [T]his way we force the AO to at least go thru the screens. The other thing you should know is I have almost no access to DTS [Defense Travel System]. [Other personnel] can see everything. I am only authorized as a reviewer . . . so I can't see anything. I get all my info second-hand. That's why sometimes it looks like I've no idea what's going on.

The audit findings provide the approving officer the opportunity to allow the excess baggage and fuel charges but they have to provide specific, mission-related impact for the exception '. . . unless there is documented justification by the AO sustaining it is due to mission requirements.' We're

not saying they are not allowed ever, we're saying the AO has to provide rationale for approving it. They have to do more than pencil-whip the voucher when approving exceptions (like non-compact car, pre-paid fuel, excess baggage, . . .).

We find no support in the record for the allegation by the SDDC Programs and Policy Branch official that the authorizing official “pencil whipped” (or rubber stamped) the vouchers or the subsequent justifications for the charges at issue. The justifications seem entirely appropriate. Clearly, the first audit reviewers agreed. Even if the traveler had entered a justification in the system during the voucher process, we can discern no reason why the authorizing official cannot read the justification, agree with it, and use that justification as the basis for voucher approval. Indeed, the guidance referenced by the SDDC travel administrator states that “[t]he traveler must enter the justification for the non-compact size vehicle.”

The rental car upgrade, prepaid fuel, and excess baggage expenses were adequately justified and properly approved by the approving official, and, accordingly, we sustain the claim and direct that any notices of collection regarding these items be withdrawn.

The claim is granted.

JONATHAN D. ZISCHKAU
Board Judge