UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 23, 2017

CBCA 5454-TRAV

In the Matter of JAMES R. DAVISON

James R. Davison, Oklahoma City, OK, Claimant.

Journey Beard, Office of Staff Judge Advocate, Department of the Air Force, Tinker Air Force Base, OK, appearing for Department of the Air Force.

SOMERS, Board Judge.

James R. Davison, a civilian employee with the Department of the Air Force and assigned to Tinker Air Force Base, Oklahoma, traveled on a temporary duty assignment (TDY) to Rock Island Arsenal, Rock Island, Illinois. Mr. Davison requested authorization to use his personally owned vehicle (POV) for travel to and from his TDY assignment. Mr. Davison contends that he received authorization to do so, although Mr. Davison did not provide any written documentation in support. The agency denies that Mr. Davison had been authorized to use his POV in lieu of government procured transportation. Upon his return, Mr. Davison submitted a voucher for travel expenses. The agency denied a portion of the expenses sought, finding that the expenses exceeded those that would have been incurred had Mr. Davison traveled by commercial air at the government rate. Mr. Davison challenges the calculation of his travel expenses and the policy underlying the calculation.

The agency has filed a motion to dismiss the claim and has provided evidence that Mr. Davison is a member of a bargaining unit covered under a collective bargaining agreement between the Air Force Material Command and the American Federation of Government Employees Master Labor Agreement. Mr. Davison did not submit a response to the motion to dismiss.

Discussion

By statute, the grievance procedures in a collective bargaining agreement applicable to a claim of a covered federal employee shall be "the exclusive administrative procedures for resolving grievances which fall within its coverage." 5 U.S.C. § 7121(a)(1) (2012). The United States Court of Appeals for the Federal Circuit has consistently held that if a matter is arguably entrusted to a collective bargaining agreement's grievance procedures, no review outside those procedures may take place, unless the parties to the agreement have explicitly and unambiguously excluded that matter from the procedures. *Dunklebarger v. Merit Systems Protection Board*, 130 F.3d 1476, 1480 (Fed. Cir. 1997); *Muniz v. United States*, 972 F.2d 1304, 1309 (Fed. Cir. 1992); *Carter v. Gibbs*, 909 F.2d 1452, 1458 (Fed. Cir. 1990) (en banc); *see also, e.g.*, *Walter S. Hammermeister*, CBCA 4891-RELO, 16-1 BCA ¶ 36,194, at 176, 577 (2015); *Daniel L. Kieffer*, CBCA 4705-TRAV, 15-1 BCA ¶ 36,050, at 176,064.

The collective bargaining agreement under which Mr. Davison is a covered employee sets forth, in article 6.01, a negotiated procedure that is the "sole and exclusive" procedure available to the employer and employee regarding grievances concerning "any matter involving the interpretation and application of applicable law, policies, regulations, and practices of the Air Force." A grievance is defined to mean any complaint –

> (a) by any employee concerning any matter relating to the employment of the employee;
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> . . .
>
> (b) by any employee, labor organization, or agency concerning –
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> (i) the effect or interpretation, or claim of breach, of a collective bargaining agreement; or
>
> (ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

The collective bargaining agreement does not carve out an exception, explicit, unambiguous, or otherwise, that would exclude from the grievance procedure Mr. Davison's dispute arising from his travel reimbursement claim. The language making the grievance procedures applicable to an agreement involving the interpretation of any law, rule, or regulation affecting "conditions of employment" subsumes travel and relocation expenses unless the collective bargaining agreement specifically provides otherwise. *Nathan Patrick*,

CBCA 4999-RELO, 16-1 BCA ¶ 36,341, at 177,196 (citing *John A. Fabrizio*, CBCA 2917-TRAV, 13 BCA ¶ 35,199 (2012)); *Kelly A. Williams*, CBCA 2840-RELO, 12-2 BCA ¶ 35,116 at 172,438; *Robert Gamble*, CBCA 1854-TRAV, et al., 11-1 BCA ¶ 34,655, at 170,743; *Thomas F. Cadwallader*, CBCA 1442-RELO, 09-1 BCA ¶ 34,077, at 168,484; *Roy Burrell*, GSBCA 15717-RELO, 02-2 BCA ¶ 31,860, at 157,442.

Some matters related to travel reimbursement are specifically addressed by federal statute, so they do not constitute conditions of employment and are not subject to grievance procedures. *Maxcy G. Hall*, GSBCA 15574-TRAV, 01-2 BCA ¶ 31,460 (citing *Charles M. Auker*, GSBCA 15231-TRAV, 00-1 BCA ¶ 30,898 (amount paid per mile addressed by statute); *John B. Courtnay*, GSBCA 14508-TRAV, 98-2 BCA ¶ 29,791, at 147,601 (reimbursement of commuting costs addressed by statute)). The dispute between Mr. Davison and the agency is not such a matter. Although federal statutes address mileage and per diem allowances, they do not specifically govern the case in which a claimant alleges that the agency misapplied a policy which limited entitlement to TDY travel reimbursement to the allowable travel time for the authorized transportation mode.

In sum, because claimant is covered under a collective bargaining agreement that does not explicitly and clearly exclude the claim from the mandatory grievance procedures for resolving disputes between the employee and the agency, the Board lacks authority to consider Mr. Davison's claim.

Decision

For the foregoing reasons, the claim is dismissed.

JERI KAYLENE SOMERS
Board Judge