



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 10, 2008

CBCA 1043-RELO

In the Matter of KENNETH J. CHASTAIN

Kenneth J. Chastain, APO Area Europe, Claimant.

Judy Hughes, Standards and Compliance, Finance Mission Area-Travel Pay, Defense Finance and Accounting Service, Columbus, OH, appearing for Department of Defense.

WALTERS, Board Judge.

Claimant, Kenneth J. Chastain, is seeking reimbursement in the amount of \$413.70, representing expenses incurred in connection with applying for a United Kingdom visa as part of a permanent change of station (PCS) transfer.

Background

On August 8, 2007, Mr. Chastain, a civilian employee of the Department of Defense, was issued a PCS authorization to transfer from Wright Patterson Air Force Base, Ohio, to Defense Commissary Agency (DeCA), Lakenheath, United Kingdom, with a reporting date of September 2, 2007.

Prior to and in preparation for the transfer to the United Kingdom, claimant was in contact with the servicing personnel office at Benelux Civilian Personnel Advisory Center (CPAC) at Supreme Headquarters Allied Powers Europe (SHAPE), Belgium. A Mr. Philippe Thomas of the CPAC advised Mr. Chastain that he would need a visa for entry into the United Kingdom. In this regard, not only did Mr. Thomas refer Mr. Chastain to a particular website for purposes of applying for an entry visa (<http://www.migrationexpert.com>), but also had Mr. Chastain simultaneously access this website along with him from their respective computers and walked through a process on

that website with Mr. Chastain, a process that required Mr. Chastain to answer a series of questions.

According to the Defense Finance and Accounting Service (DFAS), once Mr. Chastain answered all questions required by the website, Mr. Chastain was asked for his credit card information. The DFAS indicates that, at the time Messrs. Thomas and Chastain were completing the visa application questionnaire, Mr. Thomas advised Mr. Chastain that the charge would be approximately \$400 to \$500.

Mr. Chastain's actual American Express credit card payment to that website turned out to be \$413.70.

Mr. Chastain indicated to DFAS that, at some later time, when he revisited the website to determine how long the visa process would take, he first realized that the website was not an official government site, but instead merely a private sector fee for service website that provided information about obtaining a visa. Subsequently, he contacted the British Consulate General directly and obtained visas for himself and members of his family who would be accompanying him to England, paying approximately \$400 per visa. Mr. Chastain has been reimbursed the visa fee for himself. He has yet to submit a dependent relocation claim for his family members, and thus has yet to recoup their visa fees.

Mr. Chastain submitted a claim for the \$413.70 charge he had paid to the private website to which the Benelux CPAC had directed him. His new command, DeCA Europe, questioned whether such a charge could be allowed and obtained a legal opinion on the matter from its office of general counsel. That opinion was that the charge was not allowable under the Joint Travel Regulations (JTR), since the charge, in counsel's view, did not qualify as either "fees for visas" or "legal service fees" in connection with "obtaining and/or processing applications for passports or visas," items that would be reimbursable under appendix G of the JTR.

Thereafter, DeCA sought guidance from DFAS as to how Mr. Chastain's claim should be handled and, in response to DFAS questions, advised that, since October 1, 2007, DeCA had ceased using the Benelux CPAC, but instead had consolidated personnel support at the Kaiserslautern CPAC in Kaiserslautern, Germany. Further, DeCA advised DFAS that, in contrast with how Mr. Chastain had been handled, future DeCA personnel to be assigned to the United Kingdom will never again be directed to an "unofficial/unsanctioned website" but will be provided guidance from the servicing human resources specialist (at the CPAC) as to the proper procedures for obtaining a visa, including specifically "assistance in contacting the appropriate U.K. government officials." Finally, DeCA advised DFAS that, although Mr. Chastain had attempted to get the credit card charge reversed, American

Express refused to do so, because it found the charge to have been “legitimate” as a fee for information about the United Kingdom visa application process.

On January 22, 2008, DFAS submitted Mr. Chastain’s claim for this \$413.70 charge to this Board for its review and determination.

Discussion

Section 301-12.1 of the Federal Travel Regulation (FTR), 41 CFR 301-12.1 (2007), allows agencies to authorize reimbursement for miscellaneous travel-related expenses, setting out in a chart examples of miscellaneous expenses that may be authorized by agencies. Among the examples of “special expenses of foreign travel” listed in the chart are “passport and/or visa fees.” JTR appendix G, item 4b, authorizes reimbursement for “fees for visas” in connection with PCS transfers. Although neither the FTR nor the JTR indicate whether “visa fees” would include the kind of charge imposed by a private website for information associated with preparing a visa application, extending that term to include such a charge would be an unreasonable reading of the regulations. The Board also agrees with the agency that the charge in question would not qualify as “legal service fees” under JTR appendix G, item 4f, because it has not been shown (or even alleged) that the services were performed by lawyers or that “local laws and/or customs require the use of lawyers in processing such applications.”

It is unfortunate that the authorized human resources representative from the Benelux CPAC directed Mr. Chastain to a private informational website and caused him to spend money for that site’s services. We applaud DeCA for taking actions to ensure that this sort of problem does not recur. We cannot direct the agency to compensate an employee for the costs he incurred due to past errors, however, because to do so would be contrary to regulation.

Decision

The claim is denied.

RICHARD C. WALTERS
Board Judge

