



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 1, 2009

CBCA 1675-RELO

In the Matter of BEVERLY K. JOINER

Beverly K. Joiner, Fort McPherson, GA, Claimant.

Diann Batts, Chief, Civilian Personnel Branch, Department of the Army, Fort McPherson, GA, appearing for Department of the Army.

STERN, Board Judge.

Claimant was authorized a permanent change of station by the Department of the Army from Seoul, Korea, to Fort McPherson, Georgia. In accordance with the move, in January 2009, claimant was authorized sixty days of temporary quarter subsistence expenses (TQSE). The Army granted claimant an additional thirty days of TQSE in March 2009. Subsequently, claimant volunteered to transfer to Fort Sam Houston, Texas. Claimant sought an additional thirty days of TQSE while in Georgia to prepare for her move to Fort Sam Houston. The Army denied the request. Claimant requests that the Board find that she is entitled to an additional thirty days of TQSE. The Army responds that claimant's request for additional TQSE is based on her need for additional time because of her move to Texas. The Army asserts that it denied claimant's request because her move to Texas was voluntary.

Discussion

____ Paragraph C5364 of the Joint Travel Regulations (JTR) provides that an initial period of actual expense TQSE may be authorized for up to sixty days. An additional sixty days of TQSE, not to exceed a total of 120 days, may subsequently be authorized. In making a determination as to whether an extension should be permitted, the authorizing official is required to consider whether compelling circumstances beyond the employee's control justify continued occupancy of temporary lodging. The JTR contains the following examples of actions that may be considered to be beyond the employee's control:

- (1) Delayed HHG (household goods) shipment and/or delivery to the new permanent private sector housing due to extended transit time incident to ocean transportation, strikes, customs clearance, hazardous weather, fires, floods, or other acts of God;
- (2) Delayed occupancy of new permanent private sector housing because of unanticipated problems (e.g., unforeseen delays in permanent private sector housing settlement/closing, or unforeseen short-term delay in new dwelling construction);
- (3) Inability to locate permanent private sector housing adequate for family needs because of housing conditions;
- (4) Sudden illness, injury, or death of the employee or of an immediate family member; and
- (5) Similar factors.

JTR C5364-B.2(a). The JTR also provides that extensions to the initial period are not automatic and must be held to a minimum. JTR C5364-B.2(c).

Agencies have broad discretion to determine whether compelling circumstances exist beyond the employee's control, to justify a grant of additional TQSE. We do not overturn an agency's determination unless it is arbitrary, capricious, or contrary to law. *Donald E. Coney*, CBCA 702-RELO, 07-2 BCA ¶ 33,605, and cases cited therein.

Here, the Army determined that claimant's request for additional TQSE was based on her voluntary actions and not beyond her control. Based on the record, there is no evidence that this action was arbitrary, capricious, or contrary to law. There is no basis to overturn the agency's decision.

The claim is denied.

JAMES L. STERN
Board Judge