



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 3, 2010

CBCA 1900-TRAV

In the Matter of W. LYNN HODGES

W. Lynn Hodges, Waxahachie, TX, Claimant.

Kristi Akers, Financial Specialist, Budget Division, Food Safety and Inspection Service, Washington, DC, appearing for United States Department of Agriculture.

WALTERS, Board Judge.

Claimant, W. Lynn Hodges, an employee of the Department of Agriculture (the agency), seeks the Board's review of the agency's deduction from claimant's travel claim of four breakfast meals consumed while on official travel in Philadelphia. The hotel where claimant had stayed advertised (on various websites) and furnished those meals as "complimentary" to any federal employee staying at the hotel. Nevertheless, the agency takes the position that the meals were provided by the Government in connection with an agency meeting and therefore, under the Federal Travel Regulation (FTR), their cost should be deducted from claimant's daily meals and incidental expense (M&IE) allowance. *See* 41 CFR 301-11.18 (2009) (FTR 301-11.18). Consistent with the hotel's practice vis-à-vis all federal employees, the letter of intent between the agency and the hotel for the instant agency meeting lists breakfasts as being furnished to the agency's employees on a complimentary basis.

There is no evidence in the record that the agency specifically negotiated or paid for the breakfasts in question. We conclude that the breakfasts were furnished by the hotel on a complimentary basis, and not by the Government. The regulations are clear when it comes to such complimentary meals – no deduction from M&IE per diem is to be taken:

If my agency authorizes per diem reimbursement, will it reduce my M&IE allowance for a meal(s) provided by a common carrier or for a complimentary meal(s) provided by a hotel/motel?

No. A meal provided by a common carrier or a complimentary meal provided by a hotel/motel does not affect your per diem.

FTR 301-11.17.

Accordingly, the claim is granted. We direct the agency to pay to claimant the amounts in question, which it had deducted from the M&IE allowance.

RICHARD C. WALTERS
Board Judge