



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 31, 2012

CBCA 2377-RELO, 2378-RELO, 2379-RELO, 2382-RELO,
2384-RELO, 2461-RELO

In the Matters of BARBARA IMPOLLONIA, MATTHEW BUSHMIRE, MARIA
NEWMARK, SAUL E. DUARTE, DARLENE L. MITCHENOR, and
DARLA FLANAGAN-LASSITER

Barbara Impollonia, Smyrna, DE, Claimant in CBCA 2377-RELO.

Matthew Bushmire, Rising Sun, MD, Claimant in CBCA 2378-RELO.

Maria Newmark, North East, MD, Claimant in CBCA 2379-RELO.

Saul E. Duarte, Abingdon, MD, Claimant in CBCA 2382-RELO.

Darlene L. Mitchenor, Bel Air, MD, Claimant in CBCA 2384-RELO.

Darla Flanagan-Lassiter, Middletown, DE, Claimant in CBCA 2461-RELO

Sheila Melton, Director, Travel Functional Area, Standards and Compliance, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

STERN, Board Judge.

We have before us a request from the Defense Financial and Accounting Service (DFAS) to review the claims of six claimants for the payment of temporary quarters subsistence expenses (TQSE). Subsequent to the DFAS request, each claimant confirmed his or her desire to have the Board review the individual claim. The legal issue in each claim is the same.

All six claimants were individually issued permanent change of station orders by the Army Communications-Electronics Command (the Command) under the Base Realignment and Closures Act, transferring each of them from Ft. Monmouth, New Jersey, to Aberdeen Proving Grounds, Maryland. Each claimant chose the fixed amount method of reimbursement for TQSE. The initial travel orders authorized five days of fixed amount TQSE.

At a subsequent time, the Command extended the authorized fixed amount TQSE an additional twenty-five days (for a total of thirty days) for each claimant, except for one. DFAS has denied reimbursement for the twenty-five days of additional fixed amount TQSE, on the ground that the regulations do not permit a change in the amount of authorized fixed amount TQSE once a traveler has made an election. We are asked to review the DFAS determination.

The Individual Claims

Barbara Impollonia was issued travel orders on March 8, 2010, authorizing five days of fixed amount TQSE. On July 1, 2010, the Command amended the original orders and authorized an additional twenty-five days of fixed amount TQSE. Claimant occupied temporary quarters commencing October 11, 2010.

Saul E. Duarte was issued travel orders on March 1, 2010, authorizing five days of fixed amount TQSE. On July 15, 2010, the Command amended the original orders and authorized an additional twenty-five days of fixed amount TQSE. Claimant's TQSE commenced on September 2, 2010.

Darlene L. Mitchenor was issued travel orders on March 23, 2010, authorizing five days of fixed amount TQSE. On August 31, 2010, the Command amended the original orders and authorized an additional twenty-five days of fixed amount TQSE. Claimant occupied temporary quarters commencing July 28, 2010.

Matthew Bushmire was issued travel orders on March 2, 2010, authorizing five days of fixed amount TQSE. On August 26, 2010, the Command amended the original orders and added funds that were allocated to TQSE. However, no statement was made regarding an increase to the number of days. We find that Matthew Bushmire's travel authorization was not amended to permit a reimbursement of an amount greater than five days of fixed amount TQSE. His TQSE started on October 8, 2010.

Darla Flanagan-Lassiter was issued travel orders on June 2, 2010, authorizing five days of fixed amount TQSE. On August 26, 2010, the Command amended the original

orders and authorized an additional twenty-five days of fixed amount TQSE. Ms. Flanagan-Lassiter's TQSE started on July 23, 2010.

Maria Newmark was issued travel orders on March 22, 2010, authorizing five days of fixed amount TQSE. On August 26, 2010, the Command amended the original orders and authorized an additional twenty-five days of fixed amount TQSE. Her TQSE started on October 7, 2010.

Discussion

As claimants are civilian employees of the Department of Defense, the Joint Travel Regulations (JTR) govern our determination of the amount of TQSE payable to the claimants. If offered by the agency, the JTR gives the employee the option of selecting a fixed amount (lump sum) or actual expense method of reimbursement for incurred TQSE. The JTR states,

TQSE(F) is paid for up to 30 days. The number of days offered is prospective and must be established in advance. . . .

Once TQSE(F) is selected, the employee may not be paid any additional TQSE if the TQSE(F) is not adequate to cover TQSE expenses.

JTR C5384-A.3, .4. The regulations clearly make the choice prospective and once the travel has commenced the authorized TQSE may not be changed. *See Samuel E. Jones*, GSBICA 15770-RELO, 02-2 BCA ¶ 31,897 (changes to the travel authorization are not permitted once the TQSE has commenced).

However, prior to the commencement of the TQSE, we find nothing in the regulations that prevents a change in the determination of the number of days of fixed amount TQSE (not to exceed thirty) that may be authorized. Therefore, before the actual TQSE commenced, the Command had the authority to increase (or decrease) the number of days authorized.¹

¹ Some of the initial orders stated that extensions beyond five days could be granted. Other orders informed the employee that extensions could not be granted. We find that either of these statements have no effect on our determination since the Command at a later date amended the orders permitting more than five days of fixed amount TQSE.

Applying this principle to the matters before us, any claimant whose travel authorization was changed to authorize additional fixed amount TQSE, before the actual TQSE commenced, is entitled to be reimbursed up to the number of days authorized (not to exceed thirty days). Any claimant whose TQSE commenced prior to the change in the travel authorization may not be paid for TQSE in excess of that set forth in the initial authorization.

Decision

Barbara Impollonia, Saul Duarte, and Maria Newmark are entitled to be paid the fixed amount TQSE as set forth in their amended travel authorizations. Darlene Mitchenor, Matthew Bushmire, and Darla Flanagan-Lassiter are not entitled to reimbursement for fixed amount TQSE beyond the number of days set forth in their initial travel authorization.

JAMES L. STERN
Board Judge