



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 19, 2012

CBCA 2807-TRAV

In the Matter of DONALD M. McKINNON, JR.

Donald M. McKinnon, Jr., Washington, DC, Claimant.

Raul Castro, Director, Resources Division, Office of Operations Coordination and Planning, Washington, DC, appearing for Department of Homeland Security.

VERGILIO, Board Judge.

Reimbursement to an employee on temporary duty assignment connected with operations surrounding the Super Bowl is limited to actual lodging costs not to exceed 300% of the applicable maximum per diem rate, and taxes similarly limited.

As an employee of the Department of Homeland Security, Donald M. McKinnon, Jr. (claimant) traveled to Indianapolis, Indiana, in connection with a temporary duty assignment involving operations related to the Super Bowl in 2012. In advance of the trip, the claimant obtained travel authorization to be reimbursed on an actual expense basis for lodging. For four of the nights, the travel authorization states a lodging cost of \$329. The amount on the travel authorization exceeds 300% of the maximum per diem rate applicable to Indianapolis (\$91). The claimant expended \$329 per night for four of the nights. The agency has limited reimbursement to \$273 per night, which is 300% of the applicable maximum per diem rate, plus incurred taxes on that amount.

The applicable Federal Travel Regulation (FTR) specifies: "The maximum amount that you may be reimbursed under actual expense is limited to 300 percent (rounded to the next higher dollar) of the applicable maximum per diem rate." 41 CFR 301-11.303 (2011) (FTR 301-11.303). Moreover, "Your reimbursement is limited to the 300 percent ceiling. There is no authority to exceed this ceiling." FTR 301-11.305.

In this situation the regulation dictates the result. Because there was no authority to approve or reimburse the claimant actual lodging expenses in excess of \$273 per night, the agency correctly denied the claim for the excess amount. Although the claimant obtained the lodging reservations well in advance of the travel, with the approval of some agency officials, such facts are not material to the outcome. Similarly not material are the claimant's lack of knowledge of the regulation and his ability to enter into his travel system the \$329 figure. The claimant relied upon incorrect advice. Such factors do not demonstrate entitlement when the regulation expressly prohibits the payment sought. *Elizabeth D. Gosselin*, CBCA 2208-RELO, 11-2 BCA ¶ 34,876 (“The Board cannot enlarge a claimant’s rights beyond the parameters set out in regulation, even if the employee is misled by Government actions.”).

The Board denies the claim. The claimant is not entitled to additional compensation.

JOSEPH A. VERGILIO
Board Judge