



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 26, 2013

CBCA 3581-TRAV

In the Matter of MICHAEL ENGLAND

Michael England, Holiday, FL, Claimant.

M. Dwight Evans, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, Fort Meyers, FL, appearing for Social Security Administration.

KULLBERG, Board Judge.

Claimant, Michael England, brings this matter to the Board after the denial of his two travel claims by a Social Security Administration (SSA) administrative law judge (ALJ). By statute, this Board's jurisdiction to settle travel claims is limited to those cases brought by federal civilian employees. 31 U.S.C. § 3702(a) (2006). Mr. England, an attorney in private practice, is not a federal civilian employee and, consequently, this Board has no jurisdiction to hear his claim. *See Binder & Binder*, CBCA 3544-TRAV (Oct. 21, 2013); *Nirupa Netram*, CBCA 3365-TRAV, 13 BCA ¶ 35,340.

Mr. England states that he was directed to appeal his claim to this Board in accordance with the SSA's administrative instructions manual system (AIMS) financial management manual (FMM) at AIMS.FMM 07.31.05, but that provision in the manual only reiterates the fact that this Board's jurisdiction is subject to 31 U.S.C. § 3702. This Board's jurisdiction "is not plenary; it must be defined by either statute, rule, or regulation." *Binder & Binder*, slip op. at 2. There is no authority under statute, rule, or regulation that allows Mr. England to appeal the denial of his travel claim to this Board.

Finally, Mr. England contends that by executing an SSA form 1696, he became “both a necessary party and an ‘employee’ of the Federal government for the limited purpose of representing [the claimants] before [the] ALJ.” To be considered a federal employee, one must meet all of the requirements of a three-part test for federal employment that includes “federal appointment, federal supervision, and federal function.” *Baker v. United States*, 614 F.2d 263, 266 (Ct. Cl. 1980) (citing 5 U.S.C. § 2105). Mr. England does not meet any of the parts of that test. Under the terms of the SSA form 1696, Mr. England agrees, with the concurrence of his client, to represent his client before the SSA and collect a fee for his representation. Mr. England’s appointment, function, and supervision are on behalf of the client he represents and not the Government.

Decision

The claim is dismissed for lack of jurisdiction.

H. CHUCK KULLBERG
Board Judge