



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 8, 2013

CBCA 2958-TRAV

In the Matter of STEVEN W. GILBERT

Steven W. Gilbert, Panama City, FL, Claimant.

Adrione Canada, Naval Surface Warfare Center Panama City Division, Naval Sea Systems Command, Panama City, FL, appearing for Department of Navy.

VERGILIO, Board Judge.

For four consecutive days a civilian employee of the Department of the Navy boarded a merchant vessel at his permanent duty station, traveled typically within 12-14 nautical miles (approximately 14 to 16 statute miles) offshore performing work, and returned to his permanent duty station more than twelve hours after boarding. The claimant seeks compensation for his actual meal expenses (\$8 for lunch and \$2 for a snack) incurred each day on the vessel. Because the claimant remained in the vicinity of his permanent duty station, without the need for overnight lodging, the claimant is not entitled to receive the actual expenses sought.

The claimant, Steven W. Gilbert, a civilian employee of the Department of the Navy, requests reimbursement of \$40, representing his actual expenses of \$8 for lunch and \$2 for a snack on each of four days, incurred when performing official duties aboard a Government-owned merchant vessel in August 2012. Each day he would board the vessel at his permanent duty station for official duty, depart at 6 a.m. and return to his permanent duty station more than twelve hours later. Overnight lodging was not required. Work was performed approximately 12 to 14 nautical miles (approximately 14 to 16 statute miles) offshore. On board, he purchased lunch at \$8 and a snack at \$2.

The claimant asserts entitlement to reimbursement of his actual expenses, based upon a Federal Travel Regulation (FTR) provision that states one is eligible for an allowance (per diem or actual expense) when one (a) performs official travel away from one's official

station (or other area defined by the agency), (b) incurs per diem expenses while performing official travel, and (c) is in travel status for more than 12 hours. 41 CFR 301-11.1 (2012) (FTR 301-11.1). While the claimant says he recognizes he is not entitled to per diem, he maintains that he is entitled to recover his actual expenses. The claimant creates a distinction between per diem and actual expenses that is inconsistent with regulations. Entitlement to reimbursement of actual expenses is subject to the same definitions and rules governing per diem. FTR 300-3.1.

Given that the claimant remained on the vessel that he boarded at his permanent duty station, albeit for more than twelve hours per day, he has not demonstrated that he was on a temporary duty assignment. *Marvin B. Atkinson*, B-256938 (Sept. 21, 1995) (considering the nature of duties to be performed, the permanent duty station of an employee-pilot included plane and its base; meals purchased and consumed on-board could not be reimbursed because that employee remained at official station); *Howard C. Moore*, B-229279 (Aug. 25, 1988) (employees performed duties on board boats used for research and development, boarded at permanent duty station; there was no temporary duty involved because boat and port are the permanent duty station); *Provision of Meals on Government Aircraft*, 65 Comp. Gen. 16 (1985).

Even if the employee was on a temporary duty assignment (no such authorization has been provided), regulations state that one is eligible for an allowance (per diem or actual expenses) only when one performs official travel away from one's official station or other areas defined by the agency. FTR 301-11.1. The agency's here-applicable Joint Travel Regulations (JTR) specify that per diem is not authorized when an employee performs temporary duty in the vicinity of, but outside, the permanent duty station, when overnight lodging is not required. JTR 4552-C.1.a, -D. Because the claimant remained in the vicinity of his permanent duty station without the need for overnight lodging, the claimant may not receive per diem or recover his actual expenses incurred.

Accordingly, the Board denies the claim.

JOSEPH A. VERGILIO
Board Judge