



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 19, 2013

CBCA 3509-TRAV

In the Matter of KARL W. GEYER

Karl W. Geyer, APO, Area Europe, Claimant.

Robert G. Fierro, Acting Chief, Employment Compensation and Benefits Division, Civilian Personnel Directorate, Department of the Army, Heidelberg, Germany, appearing for Department of the Army.¹

WALTERS, Board Judge.

The claimant, Karl W. Geyer, a civilian employee of the Department of the Army (Army), made a permanent change of station (PCS) move from Wright-Patterson Air Force Base (AFB) in Dayton, Ohio, to Caserma Ederle in Vicenza, Italy, in April 2012. The instant claim is for \$980 for ten days of subsistence expenses for himself and his spouse as part of his pre-departure foreign transfer allowance (FTA). That claim had been denied by the Army, by letter dated December 5, 2012, because Mr. Geyer purportedly elected to depart for his foreign PCS assignment from John F. Kennedy (JFK) International Airport in New York, rather than from his former post of assignment in Dayton, Ohio. For the reasons enunciated below, Mr. Geyer has satisfied the Board that the agency was incorrect in this regard and that he is entitled to the \$980 in question.

¹ Although Mr. Fierro authored the agency's denial of Mr. Geyer's claim, he did not appear in this matter before the Board to provide the agency's position. Despite repeated requests by the Board seeking further input from the agency, the Department of the Army failed to provide a response to Mr. Geyer's claim.

Discussion

Pursuant to the provisions of the Department of State Standardized Regulations (DSSR), a federal employee is paid an FTA, in order to compensate the employee for costs not otherwise recovered that are incurred “incident to establishing him or herself at any post of assignment in a foreign area.” The FTA consists of four elements: (1) a miscellaneous expense portion, (2) a wardrobe expense portion, (3) a pre-departure subsistence expense portion, and (4) a lease penalty expense portion. DSSR 241.2. The current matter involves only the portion of the FTA pertaining to pre-departure subsistence expenses. The DSSR allows for payment for such expenses for up to ten days prior to departure for the foreign post and calls for such payment, regardless of where the expenses are incurred, so long as the location is within the United States during that pre-departure period. Reimbursement may be done on an actual expense basis or the employee may be provided payment on the basis of a flat rate computed using the standard Government per diem rates specified for the location of the employee’s old duty post.

In the present case, though Mr. Geyer’s household goods were shipped from his residence in Beavercreek, Ohio, a suburb of Dayton, on April 11, 2012, he and his wife chose to remain in the residence “without furniture, dishes or cooking utensils” for the next ten days, prior to their departing Dayton for Italy on April 21, 2012. The Geyers incurred no pre-departure lodging expenses and Mr. Geyer is not claiming lodging as part of the pre-departure subsistence portion of his FTA. He is seeking reimbursement of pre-departure meals and incidental expenses (M&IE) for that ten day period, however. In this regard, the DSSR permits recovery for such expenses on a flat rate basis, and would allow the employee 100% of the M&IE portion of his Dayton, Ohio, Government per diem for himself and 75% of the M&IE portion of the per diem for his wife. DSSR 242.3.a. The M&IE portion of the Government per diem for Dayton was \$56 in April 2012. Mr. Geyer accordingly claimed \$98 per day (175% of \$56) for the ten day period in question, or a total of \$980.

The Army denied this claim and, by its letter of December 5, 2012, reaffirmed the denial:

The request for 10 days of pre-departure subsistence expense portion of the FTA was denied because Mr. Geyer did not depart for his overseas assignment from his former post of assignment, but rather elected to depart from New York to accommodate travel for his two dogs. We have reviewed Mr. Geyer’s request for the pre-departure subsistence expense portion of the FTA for 10 days and, while we are sympathetic to his request in particular in light of the circumstance that he and spouse elected to remain in their quarters following

the shipment of their household goods, we find that previously rendered decision was appropriate and in accordance with DSSR Section 242.3c.

DSSR 242.3.c reads, in pertinent part, as follows:

c. The ten days may be anywhere in the U.S. (calculated using the per diem rate of the U.S. post of assignment) as long as employee or family members have not begun travel on orders and final departure is from the U.S. post of assignment.

Mr. Geyer explains that airplanes originating in Dayton did not have the capacity to accommodate his dogs. As a result, he arranged with the Government travel agency to drive with his wife and his dogs to New York City in a rental car obtained at Dayton Airport, starting out on April 21, 2012, and for them to fly to Italy from JFK International Airport on April 22, 2012. His travel voucher, which was approved and presumably paid (other than for the pre-departure expenses in dispute), indicated travel by rental car from Dayton beginning on April 21, at a cost of \$239.20, which Mr. Geyer documented. The travel orders he was issued did not specify that he was to depart his “releasing official station” in Dayton by means of air transportation. Indeed, the travel orders, dated January 23, 2012, inexplicably indicated an “X” opposite the “rail” transportation mode. Neither the applicable Government travel regulations nor the DSSR mandate that travel from the original duty station commence by air, and we cannot agree that the employee and his spouse in this case made their “final departure” from anywhere other than Mr Geyer’s “U.S. post of assignment,” simply because the last leg of their trip to Italy was from the JFK International Airport in New York. The “final departure” and their beginning of travel on orders in this case was on April 21, 2012, in a rental car from Mr. Geyer’s “U.S. post of assignment” in Dayton. The agency thus erred in denying Mr. Geyer’s claim for pre-departure subsistence expenses.

Decision

The claim for \$980 in pre-departure subsistence expenses is granted.

RICHARD C. WALTERS
Board Judge