



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 15, 2014

CBCA 3743-TRAV

In the Matter of HENRY W. STOUT

Henry W. Stout, Diamondhead, MS, Claimant.

David E. Gilliland, Comptroller, Naval Oceanographic Office, Department of the Navy, Stennis Space Center, MS, appearing for Department of the Navy.

DANIELS, Board Judge (Chairman).

From October 27 through December 7, 2013, Henry W. Stout was assigned by the Department of the Navy to an oceanic surveying project in the Sultanate of Oman. Mr. Stout's travel orders authorized a per diem allowance. He slept in Omani barracks at no cost, so he did not seek reimbursement for the lodging portion of that allowance. He did claim, however, the portion of the allowance for meals and incidental expenses. The Navy paid the allowance for meals, but not for incidental expenses. Mr. Stout asks us to review the agency's decision as to incidentals.

The Navy's position is based on its reading of the definition of "per diem allowance" which is contained in the Department of Defense's Joint Travel Regulations (JTR). As this definition states, a per diem allowance "[i]s a daily payment instead of actual expense reimbursement for lodging, meals and related incidental expenses." JTR App. A. "Incidental expenses," one of the items covered by a per diem allowance, include:

1. Fees and tips to porters, baggage carriers, bellhops, hotel maids, stewards/stewardesses, and others on ships, and hotel servants in foreign countries. . . . ;

2. Transportation (i.e., bus, subway) between places of lodging or duty/business and places at which meals are taken, if suitable meals cannot be obtained at the [temporary duty] site. . . . ;
3. Laundry/dry cleaning, and/or pressing of clothing when travel is to an OCONUS [outside the continental United States] location;
4. Potable water and ice ;
5. Tax and service charges (other than vendor surcharges for using a credit card) for any of the expenses listed ; and
6. Any other necessary expenses related to lodging that are listed in the room account.

Id. The Navy seems to conclude that because the majority of these incidental expenses are “tied to lodging charges,” and Mr. Stout incurred no lodging charges, he should not be granted an allowance for such expenses. The agency believes, however, that reimbursing him for his laundry expenses is appropriate.

As Mr. Stout maintains, the Navy’s reading of the JTR is flawed. These regulations explain, “Per diem is designed to offset lodging and M&IE [meals and incidental expenses] costs incurred while performing travel, and/or TDY [temporary duty] away from the [permanent duty station].” JTR C4050-A.1. “Per diem is applicable for all TDY . . . periods; except when an [actual expense allowance] is authorized/approved.” *Id.* C4050-A.5. “Per diem rates include a fixed allowance for M&IE. The M&IE rate[] is payable to a traveler without expense itemization or receipts.” *Id.* C4050-A.12. The per diem allowance for M&IE is payable whether lodging is required or not. *Id.* C4075.

An agency may prescribe a reduced per diem allowance “when a per diem rate is more than what is needed for a particular duty assignment because of known lodging and/or meal cost reductions due to prearrangement, special discounts, or other reasons.” JTR C4095-A.1; *see also* 41 CFR 301-11.200(a) (2012); *cf.* *Robert W. Carlson*, CBCA 2165-TRAV, 11-1 BCA ¶34,762 (Department of State’s Foreign Affairs Manual “permits reduction of per diem rates to cover M&IE only under very narrowly defined circumstances”). A reduced allowance must be requested and authorized prior to the travel, however, and it must be stated on the orders before it takes effect. JTR C4095-A.2, -E; 41 CFR 301-11.200(b). When a reduced allowance is authorized, an amount for laundry and dry cleaning may be prescribed for OCONUS travel; otherwise, though, laundry and dry cleaning costs are to be

paid by the employee from the per diem allowance. *Id.* C4095-G, App. A (“per diem allowance,” par. G).

Mr. Stout was authorized a per diem allowance before he left for Oman, and the Navy has provided no evidence that his orders were ever modified to limit that allowance. The allowance covered incidental expenses, so the agency is obligated to pay the portion of the allowance attributable to those expenses. It is not apparent that most incidental expenses relate to lodging, and in any event, the agency would be acting contrary to the command of the JTR if it were to reimburse him for laundry expenses separately.

STEPHEN M. DANIELS
Board Judge