



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 8, 2014

CBCA 3840-RELO

In the Matter of RICHARD J. MAILLET

Richard J. Maillet, Albuquerque, NM, Claimant.

Teesha R. Huggins, Chief, Labor/Employee Relations & Services Division, Human Resources Office, Commander Navy Region, Japan, appearing for Department of the Navy.

HYATT, Board Judge.

Claimant, Richard J. Maillet, is a civilian employee with the Department of Defense (DOD). Claimant has worked for the United States Navy in Singapore as a security specialist since May 1, 2004. DOD has a policy limiting the length of overseas assignments. Since claimant had been assigned overseas for the maximum length of time allowed, claimant elected to participate in DOD's priority placement program (PPP) to find an new position within the continental United States. The PPP matched him with a position in Albuquerque, New Mexico, with the United States Army Corps of Engineers. Claimant accepted the offer on February 12, 2014.

The PPP required claimant to report to his new position within forty-five days of acceptance of the job offer. The agency issued travel orders for claimant's permanent change of station move, setting travel to begin on or about April 6, 2014. Claimant sought approval for his dependent wife and daughter to remain in United States government-leased housing in Singapore after his travel date to allow his daughter to complete the school year. The agency agreed to permit his dependents to remain in government housing until June 10, 2014, for a total of sixty-five days, and stated that claimant would be charged rent beginning April 7, 2014, for a total cost of \$2609.79 for the housing.

Claimant's travel orders authorized temporary quarters subsistence allowance (TQSA) for up to thirty days. Claimant sought an extension of TQSA of six days (later amended to

eight days due to travel delays). When the agency denied his request, claimant appealed to the Board.

Discussion

The statute dealing with quarters allowances provides, in pertinent part:

(a) When Government owned or rented quarters are not provided without charge for an employee in a foreign area, one or more of the following quarters allowances may be granted when applicable:

(1) A temporary subsistence allowance for the reasonable cost of temporary quarters (including meals and laundry expenses) incurred by the employee and his family -

(B) for a period of not more than 30 days immediately before final departure from the post after the necessary evacuation of residence quarters.

(b) The . . . 30-day period under subsection (a)(1)(B) may . . . be extended for not more than 60 additional days if the head of the agency concerned or his designee determines that there are compelling reasons beyond the control of the employee for the continued occupancy of temporary quarters.

5 U.S.C. § 5923 (2012).

According to the Department of State Standardized Regulations (DSSR), which implement this statute:

A temporary quarters subsistence allowance granted immediately preceding the employee's final departure from the post shall terminate as of the earliest of the following dates:

a. on the 31st day following commencement of the grant unless an extension is authorized under Section 122.2 by the head of the agency;

b. the date expenses for temporary lodging are no longer incurred; however, see Section 124.33 for employee occupying no cost temporary quarters;

- c. the date of the employee's departure, or the date of departure of family members if later, under transfer orders. Where the employee's departure for transfer precedes that of family members, the temporary quarters subsistence allowance at the previous post shall not extend beyond the date preceding the date of the arrival of the new employee at the new post; or
- d. the date of separation from a Federal agency.

DSSR 124.2.

Claimant arrived at his new duty station on April 5, 2014. In accordance with the applicable statute and DSSR 124.2(c), claimant's eligibility for TQSA ended on April 4, 2014, the date preceding his arrival at his new post.

Claimant acknowledges that his eligibility for TQSA ended on April 4, 2014. However, claimant points out that he has requested TQSA from June 4 to June 10, 2014, to cover the time period when his dependents moved out of government housing in Singapore and traveled to his new posting. Claimant argues that the regulations permit the agency to extend TQSA for an additional sixty days, if the head of the agency determines that compelling reasons beyond the control of the employee require continued occupancy of temporary quarters. Claimant is not seeking TQSA for the period of April 5 to June 3. The thrust of claimant's argument appears to be that if the agency can extend TQSA for an additional sixty days, the sixty-day extension can begin at a later date, i.e., not necessarily the date after the statutorily defined termination date.

This argument misses the point. Claimant's entitlement to TQSA ended when he departed from the originating post. As the regulations plainly state, "[w]here the employee's departure for transfer precedes that of family members, the temporary quarters subsistence allowance at the previous post shall not extend beyond the date preceding the date of the arrival of the new employee at the new post." Nothing permits the agency to extend it beyond that point.

Decision

Claimant is not entitled to TQSA under the facts presented here. The claim is denied.

CATHERINE B. HYATT
Board Judge