



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 16, 2014

CBCA 3788-RELO

In the Matter of ANNETTE M. ZAPF

Annette M. Zapf, Okinawa, Japan, Claimant.

Terry Williams, Human Resources Director, Commander, Navy Region Europe, Africa, Southwest Asia, Human Resources, Department of the Navy, Sigonella, Italy, appearing for Department of the Navy.

KULLBERG, Board Judge.

Claimant, Annette M. Zapf, seeks reimbursement for temporary quarters subsistence allowance (TQSA) during February 15-17, 2014. The Department of the Navy (Navy) contends that Ms. Zapf is not entitled to TQSA for those days because she stayed at a hotel that was not within a reasonable proximity of her previous duty station, United States Naval Air Station, Sigonella, Italy (NASSIG). For the reasons stated below, the claim is granted.

Background

Ms. Zapf was assigned to NASSIG on February 7, 2012, and on or about January 21, 2014, she advised her civilian personnel office that she had accepted a position in Okinawa, Japan. She was authorized to receive TQSA during her relocation. After vacating her residence on February 2, 2014, Ms. Zapf stayed until February 14, 2014, at a hotel in Aci Castello, which was within walking distance of her former residence. She then decided to stay at a hotel in Ragusa during February 15-17, 2014. On February 18, 2014, Ms. Zapf stayed at the Navy Gateway at NASSIG. NASSIG, Aci Castello, and Ragusa are located in southeastern Sicily.

Upon filing her claim for TQSA, Ms. Zapf was informed by the Navy that she would be reimbursed for TQSA while she stayed in Aci Castello and at the Navy Gateway, but she would not receive TQSA when she stayed in Ragusa during February 15-17, 2014. Ms. Zapf submitted her claim to this Board for the denial of that portion of her TQSA claim when she stayed in Ragusa.

Discussion

The issue in this matter is whether the Navy properly determined that Ms. Zapf is not entitled to TQSA for the days in which she stayed in Ragusa because of its distance from NASSIG. Statute provides the following:

(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.

5 U.S.C. § 5923(a) (2012). Under the Joint Travel Regulations (JTR), which apply to Ms. Zapf, her entitlement to TQSA is subject to the rules set forth in the Department of State Standardized Regulations (DSSR). JTR C1255. The DSSR define TQSA as a “temporary quarters assistance allowance . . . intended to assist in covering the average cost of adequate but not elaborate or unnecessarily expensive accommodations.” DSSR 122.1. “The location of the temporary quarters must be within reasonable proximity of the post.” *Id.* 125. This Board has recognized that neither statute nor the DSSR “draws a concentric circle around the site noted on the travel orders and provides that any lodging outside of a certain mile limit from center city is not allowable.” *Yong-Hee Andrean*, CBCA 2632-TRAV, 12-2 BCA ¶ 35,076, at 172,273. Reimbursement for TQSA was allowed in that matter when the claimant commuted for an hour between two different cities in Germany, Wiesbaden and Landstuhl. *Id.*

The Navy and Ms. Zapf have both provided information as to the distance and driving times between Ragusa and NASSIG. The Navy contends that the commuting time between Ragusa and NASSIG is an hour and twenty-five minutes, and the distance is fifty-five miles. Ms. Zapf claims that the driving time between NASSIG and Ragusa is an hour to an hour and fifteen minutes. In support of her contention, she cites the experience of two NASSIG employees who commute from Ragusa. Additionally, Ms. Zapf contends that her commuting time from NASSIG to her former residence was an hour and fifteen minutes in the evening and forty-five minutes in the morning. Ms. Zapf also points out that the Board found the commuting distance between Wiesbaden and Landstuhl to have been reasonable in *Yong-Hee Andrean*, and the distance between those two cities is 108 kilometers, which converts to approximately sixty-seven miles. That distance is greater than the distance between Ragusa and NASSIG.

The Board finds, as a matter of generally accepted experience, that commutes in excess of an hour are hardly uncommon in metropolitan areas within the United States. Similarly, commutes in excess of an hour appear to have been typical for some NASSIG employees. Although Ms. Zapf's normal commute while she worked at NASSIG was probably shorter than the driving time between NASSIG and Ragusa, she was still within a reasonable distance of NASSIG. The DSSR require that an employee's lodging be in a reasonable proximity with his or her duty station and not be extravagant. Ms. Zapf has provided evidence that the cost of her lodging in Ragusa was less than the nightly rate charged by the hotel in Aci Castello, so it was not extravagant. Accordingly, the denial of reimbursement of TQSA for February 15-17, 2014, was not justified.

Decision

The claim is granted.

H. CHUCK KULLBERG
Board Judge