



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 18, 2014

CBCA 3688-TRAV

In the Matter of LUIS F. PEREZ

Luis F. Perez, Bogotá, Colombia, Claimant.

James E. Hicks, Office of Chief Counsel, Drug Enforcement Administration, Department of Justice, Springfield, VA, appearing for Department of Justice.

SOMERS, Board Judge.

Luis F. Perez, formerly a special agent (SA) with the Drug Enforcement Administration (DEA), served as an Assistant Regional Director in Bogotá, Colombia, reporting for duty on May 24, 2010.¹ SA Perez's wife and three children did not accompany him at that time.

Following a year of service at the post, SA Perez became eligible for rest and recuperation (R&R) travel expenses. He requested funding for R&R travel for himself and his four dependents on April 27, 2011. The agency approved the travel as requested. SA Perez's family arrived at post on June 18, 2011, and accompanied him on the R&R travel, which occurred from June 23 through July 6, 2011. Following the R&R travel, SA Perez's family returned to the continental United States. SA Perez's family never resided in Colombia.

¹SA Perez has since retired from the DEA.

On July 7, 2011, SA Perez submitted a travel voucher, which included airfare for himself and his family members. The agency paid the expenses in full. A later audit of agency travel reimbursement records disclosed that SA Perez's family members did not qualify for R&R travel because they had not resided at the post. On December 6, 2013, the agency asked SA Perez to repay the DEA \$9265.44 for the improper reimbursement of his family's R&R travel expenses. After an unsuccessful appeal within the agency, SA Perez appealed to the Board.

Discussion

In administering R&R travel, the DEA follows the rules set forth in the United States Department of State Foreign Affairs Manual (FAM). These rules provide that eligible employees may go on R&R travel abroad to designated relief points and be reimbursed. 3 FAM 3725.3. Family members may also be eligible for R&R travel. However, unless otherwise approved under exceptional circumstances, "eligible family members must reside at post for the entire tour to qualify for the travel benefit." 3 FAM 3721.4(c).

Here, because SA Perez's family never resided at post, they are not eligible for R&R travel. SA Perez does not dispute the fact that his dependents did not reside at post. Rather, SA Perez asserts that he relied upon "the expertise of DEA's admin people who reviewed my funding request, approved the funding, and sent me a funding cable." SA Perez contends that he submitted his request "openly, without any attempt at concealment or subterfuge regarding when my family reported to post." Finally, SA Perez notes that "I would never even have requested this had I known that there was a rule preventing my family from being eligible for this travel. My understanding was that their eligibility stemmed from the employee's eligibility."

The fact that SA Perez did not attempt to conceal that his family had not actually resided at post, or that agency officials initially paid his claim, does not change the fact that SA Perez's dependents did not qualify for R&R travel reimbursement. SA Perez can point to no legal authority that permits reimbursement for R&R travel for dependents who do not live at post, nor does he suggest that exceptional circumstances warranted reimbursement. Nothing in the regulations permits the agency to pay dependent R&R travel under these facts. Accordingly, the agency properly sought reimbursement of the improper payment of travel expenses for SA Perez's family.

Decision

The appeal is denied.

JERI KAYLENE SOMERS
Board Judge