



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 13, 2015

CBCA 4035-TRAV

In the Matter of CATHERINE GRACE BOWLES

Catherine Grace Bowles, Concord, MA, Claimant.

Anne Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

Catherine Grace Bowles was issued orders by her employer, the United States Army Corps of Engineers, to travel on temporary duty (TDY) to Washington, D.C., from March 1 to June 28, 2014. Ms. Bowles and the Corps disagree as to the amount the Corps should pay for lodging expenses she incurred in June.

The Corps and Ms. Bowles agree that she was entitled to be reimbursed for all of her lodging costs in Washington, up to the maximum daily rate prescribed by the General Services Administration for that city in the months she was there, \$224. Ms. Bowles signed a lease for lodging in Washington on a long-term basis. Specifically, the lease called for her to rent an apartment for four months, from March 1 through June 30, at a rate of \$196 per day, with payments due on a monthly basis.

There is no dispute as to reimbursement of lodging costs for the first three months of Ms. Bowles' TDY assignment. During the month of June, she took five days of pre-arranged and -approved leave before returning to Washington and thence to her permanent duty station. The Corps misconstrued the duration of her leave as ten days by including the weekends on either end of the leave period and adding one day. The Corps then decided that she was entitled to reimbursement for twenty days of lodging costs for the month. It divided her total rent for June, \$5880 (\$196 times thirty), by twenty, finding that the cost was \$294

per day. Because \$294 is greater than the \$224 daily maximum, the agency reimbursed her in the amount of only \$224 for each of twenty days in June.

The Corps believes that this result is dictated by paragraph C4155 of the Defense Department's Joint Travel Regulations (JTR). This paragraph provides that "[i]f a traveler is TDY at one location for more than 30 days, lodging reservations should be made on a weekly, monthly, or other long term basis, if possible." JTR C4155-A. Further, "When a traveler rents/leases lodging on a weekly, monthly, or longer term basis, the daily TDY lodging cost is computed by dividing the total periodic (e.g., weekly, monthly) lodging cost by the number of days the traveler is authorized the lodging portion of per diem. (62 Comp. Gen. 63 (1982))." *Id.* C4155-B.1. The paragraph also contains an example of how to compute reimbursable costs when an employee rents lodging "on a long term basis for \$900/month" and takes leave for ten days: the monthly rate should be divided by the number of days excluding leave days to determine a daily rate. *Id.* C4155-C.

The JTR, as an agency rule which implements the Federal Travel Regulation (FTR), must be construed in a way which is consistent with the FTR, since the latter regulation is a "legislative rule" that has the force of law. *Stephen M. England*, CBCA 3903-TRAV, 15-1 BCA ¶ 35,870 (citing *Robert A. Cherry*, CBCA 3878-TRAV, 14-1 BCA ¶ 35,707). The FTR provides, as to the matter in dispute:

How is my daily lodging rate computed when I rent lodging on a long-term basis?

When you obtain lodging on a long-term basis (e.g., weekly or monthly) your daily lodging rate is computed by dividing the total lodging cost by the number of days of occupancy for which you are entitled to per diem, provided the cost does not exceed the daily rate of conventional lodging. Otherwise the daily lodging cost is computed by dividing the total lodging cost by the number of days in the rental period. Reimbursement, including an appropriate amount for M&IE [meals and incidental expenses] may not exceed the maximum daily per diem rate for the TDY location.

41 CFR 301-11.14 (2013).

As Ms. Bowles points out, the Corps incorrectly applied the example shown in subparagraph C4155-C of the JTR to her situation, given the precepts of subparagraph C4155-B and the relevant FTR provision. The example assumes a month-to-month lease, and if the Corps' theory that Ms. Bowles' lease was such an instrument were correct, the agency's application would have been appropriate. Ms. Bowles' lease was not month-to-

month, however; she rented her apartment for a four-month period. Ms. Bowles was entitled to per diem for 115 days – the 120 originally authorized, less the five days of leave she took in June. To determine the daily rate for her lodging, therefore, the cost of the apartment for the entire period (\$23,912) must be divided by 115; that daily rate is \$207.93. If we were to accept the Corps' theory that she was on leave for ten days, instead of five, the daily rate would be \$23,912 divided by 110, or \$217.38.

Decision

Because the daily rate we have calculated – and even the one the Corps should have found, based on its perception of the duration of Ms. Bowles' leave – is less than the \$224 per day which was authorized, the Corps must reimburse Ms. Bowles for all of her lodging costs for June, as well as for the three previous months. This result is consistent with our ruling in *Richard Beeman*, CBCA 2324-TRAV, 11-1 BCA ¶ 34,741, as well as the Comptroller General's decision in the case cited in JTR C4155-B, *Jesus Soto, Jr.*, 62 Comp. Gen. 63 (1982).

STEPHEN M. DANIELS
Board Judge