



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 7, 2015

CBCA 3982-TRAV

In the Matter of HEATHER M. MORGAN

Heather M. Morgan, Washington, DC, Claimant.

Shirley L. Autry, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

HYATT, Board Judge.

Claimant, Heather M. Morgan, was assigned long-term temporary duty (TDY) by her employer, the Army Corps of Engineers (the Corps). After an audit of her expense vouchers, the Corps determined that she had been overpaid for lodging expenses and has billed her for the amount of \$15,740.26. Ms. Morgan argues that, under the circumstances, the Corps should not be entitled to recover the amount it seeks to recoup and has asked the Board to review the agency's actions in this regard.

Background

The Corps sent Ms. Morgan on a detail from the New York District to Washington, D.C., for the period from July 7, 2013, through November 30, 2013. Ms. Morgan was authorized lodging and per diem for her TDY travel at the daily rates applicable for Washington, D.C. Her travel was funded for the full daily per diem rates, including lodging. During most of this period, she stayed in an apartment that was less expensive than the daily lodging per diem rate.

Ms. Morgan was instructed to submit her travel expenses for reimbursement using the Corps of Engineers Financial Management System (CEFMS), which facilitates the online processing of travel orders and expense vouchers. Ms. Morgan was not given any formal

instruction in how to use the system for this purpose. She states that the daily lodging rate was automatically populated on the travel voucher screen, which apparently is the screen used by the Corps to calculate reimbursement of travel expenses. She now understands that this rate must be manually changed to reflect the actual amount paid by the traveler, but points out that there were no clear instructions to that effect. She did provide information reflecting her actual costs at other screens in the process, but did not adjust this particular screen to reflect her actual lodging rate. Ms. Morgan further emphasizes that she submitted receipts reflecting her actual expenses and never requested reimbursement of anything other than these expenses. Despite Ms. Morgan's efforts to identify her actual costs elsewhere in the CEFMS, her district processed the vouchers and reimbursed the full lodging per diem amount, rather than the actual amount she requested.

When this first occurred, Ms. Morgan contacted the Finance Center and inquired whether the payment amount was correct and was assured that it was. She states that it did not occur to her to ask if the Corps had taken into account the fact that her actual lodging expense was lower than the full daily rate. She was assured that the payment was correct and she accepted that this was the case.

In March 2014, some months after Ms. Morgan completed her detail, the Corps audited her travel vouchers. The audit identified the errors in processing Ms. Morgan's travel vouchers and determined that she had been overpaid the amount of \$15,740.26 for lodging expenses she had not actually incurred. The Corps informed Ms. Morgan that she would be required to repay the amount in question. She has challenged this action.

Discussion

Ms. Morgan recognizes that she did not actually incur the full amount of lodging expenses for which she was reimbursed, but, in these circumstances, challenges the agency's decision to recoup the amounts it paid her in excess of her actual cost experience. First, she emphasizes that she made every effort to avoid this situation by asking about the discrepancy in the agency's payments of her vouchers. When she realized that the agency was paying her the full amount of the lodging per diem rate, rather than the amount reflected on the receipts she had submitted, she tried to verify that this amount was correct by asking about the difference between her receipts for lodging and the amounts deposited to her account, but was told that everything was in order. Having received this assurance, she used the money to pay down student loans and does not now have this lump sum amount available to her. Ms. Morgan also notes that the voucher was processed through several supervisory levels without anyone identifying the error. Finally, she points out that the reimbursement amounts she received did not exceed the Government rate that was authorized or the amount for which her travel was funded.

By law, a federal employee who is assigned to perform official business away from his or her permanent duty station is entitled to be reimbursed the “actual and necessary expenses of official travel.” 5 U.S.C. § 5702(a)(1)(B) (2012). The procedures under which official travel is reimbursed are established in the Federal Travel Regulation (FTR) and, for the Department of Defense, supplemented in the Joint Travel Regulations (JTR). The applicable regulations generally provide for a “lodgings-plus per diem” rate of reimbursement. Under this system, the traveler is paid for the actual cost of lodging up to the maximum rate established for the locality, plus a daily allowance to cover meals and incidental expenses.¹ 41 CFR 301-11.5, .100 (2013); JTR C4553; *Mark J. Lumer*, CBCA 2169-TRAV, 11-2 BCA ¶ 34,780. Although the meals and incidentals allowance is a lump sum that the employee is not required to account for, the lodgings amount is not. The agency had no authority to pay an amount in excess of the lodging costs that were actually incurred by Ms. Morgan. As such, the Corps has properly determined that the amount must be repaid. *Michael W. Eck, Sr.*, CBCA 3383-TRAV, 14-1 BCA ¶ 35,527.

It appears that the CEFMS system used by the agency may have contributed to the overpayments that were generated in this case. Ms. Morgan, who had received no training in how to use the system, made an effort to determine if the first overpayment she received was a mistake. It is not clear whether Ms. Morgan actually received erroneous advice concerning her travel vouchers, or whether the communications she had with the agency were simply confused in nature. Regardless, this cannot form the basis for relief from the obligation to repay the amounts in question. *See, e.g., Mark Alden*, CBCA 4055-TRAV, 15-1 BCA ¶ 35,852 (2014); *Daryl J. Steffan*, CBCA 3821-TRAV, 14-1 BCA ¶ 35,734; *see also Gary L. Dissette*, CBCA 526-RELO, 07-1 BCA ¶ 33,572 (incomplete, confusing, conflicting, or incorrect advice concerning entitlement to a benefit does not operate to create an entitlement that is not authorized by law).

We note that Ms. Morgan has expressed her concerns about her situation in a thoughtful, cogent manner, suggesting ways in which the Corps might improve the system to avoid future misunderstandings of this nature. The agency may want to consider whether it could revise its system to avoid the result that occurred in this case.

Ms. Morgan has stated that repayment of this amount will pose a substantial hardship for her. The Board has no authority to waive repayment of this debt, but notes that the head of the agency has the authority to waive repayment, in full or in part, if he or she considers that the extenuating circumstances identified by Ms. Morgan are such that collection of the

¹ There are exceptions to this reimbursement system, but none are applicable here.

debt “would be against equity and good conscience and not in the best interests of the United States.” 5 U.S.C. § 5584(a); *see, e.g., RuthAnne S. Darling*, CBCA 1461-TRAV, 09-2 BCA ¶ 34,153.

Decision

The claim is denied.

CATHERINE B. HYATT
Board Judge