



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 29, 2015

CBCA 4657-TRAV

In the Matter of AMIR A. GUIRGUIS

Amir A. Guirguis, Alexandria, Egypt.

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

HYATT, Board Judge.

Claimant, Amir A. Guirguis, a civilian employee of the United States Army Corps of Engineers (Corps) assigned to a post in Alexandria, Egypt, seeks review of the denial of his claim for reimbursement of lodging and per diem expenses incurred by his daughter in connection with an emergency evacuation order for Egypt following a change of government in that country. Although claimant's daughter was included on the relevant travel orders, the Corps disallowed payment of the expenses claimed because she had turned twenty-one prior to the date of the evacuation order. For the reasons stated, the claim is denied.

Background

Mr. Guirguis, who was transferred to Egypt in 2007, took tour renewal agreement travel to the United States in June 2013, and while there underwent a medical procedure. He was recovering in Dayton, Ohio, when an ordered evacuation of his permanent duty station in Alexandria, Egypt, came into effect, precluding his return to Egypt. Temporary duty travel orders were issued for the period from July 12 through December 31, 2013, authorizing lodging and per diem expenses for Mr. Guirguis and his family in Winchester, Virginia, the designated safe haven location. The evacuation travel orders included claimant, his spouse, and his daughter, who was already twenty-one years old at the time. Claimant's daughter had her own hotel room for the period in which she stayed in Winchester.

Mr. Guirguis submitted a travel voucher to the Corps for the lodging and per diem expenses associated with the evacuation for himself and his wife and daughter. Upon review of the voucher, the Corps' Finance Center determined that the expenses incurred on behalf of Mr. Guirguis's daughter for the period from July 13 through August 28, 2013,¹ were not payable under the applicable regulations and disallowed those expenses, which amounted to \$5541.74.

Discussion

Eligibility for reimbursement of expenses incurred by employees stationed overseas who are affected by an ordered evacuation from a foreign area is governed by the Department of State Standardized Regulations (DSSR). The DSSR authorize payment of expenses for employees and their dependents who are evacuated from assigned posts of duty, for military or other reasons which create imminent danger to the life of the employees or their dependents or which otherwise are in the national interest. Payments are limited to children of eligible employees who are unmarried and under the age of twenty-one, or who are over the age of twenty-one, but incap

able of self-support. The DSSR have the force and effect of law. *Miriam E. Bolaffi*, CBCA 4029-RELO, 15-1 BCA ¶ 35,962 (citing *Gordon D. Giffin*, GSBCA 14425-RELO, 98-2 BCA ¶ 30,100). Thus, under the regulations applicable to this situation, claimant's daughter was not eligible for payment of evacuation expenses at the time the orders were issued and the Corps properly declined to reimburse these expenses.

Mr. Guirguis does not dispute the interpretation of the DSSR provisions cited by the Corps, but points out that his daughter's date of birth was expressly referenced on the evacuation travel orders such that the Corps knew her age when it included her as a dependent on his orders.² He states that he relied on these orders when he incurred expenses for his daughter to stay in Winchester under the evacuation order. In his view, the lack of

¹ Mr. Guirguis's daughter was removed from the travel orders on August 28, 2013, because she elected at that time to return to Egypt and resume university studies in Cairo.

² We note that the DSSR provide that if a dependent child who at government expense has accompanied a parent to an overseas assignment, turns twenty-one while still overseas, that child may be authorized the expense of return travel to the United States. It appears that the transportation officer who approved the orders issued to Mr. Guirguis mistakenly construed this provision to extend to entitlements relating to the ordered evacuation.

appropriate direction from the agency, and the issuance of the incorrect orders, cost him \$5541.74, and caused his daughter to stay in Winchester unnecessarily. He thus contends that he should be reimbursed these out-of-pocket expenses and asks the Board to rectify this situation.

The Board, on numerous occasions, has recognized that erroneous travel orders, reflecting mistaken assumptions on the part of authorizing officials, cannot obligate the Government to expend monies contrary to regulation. *Ramsey D. Lockwood*, CBCA 3556-RELO, 14-1 BCA ¶ 35,560; *accord Michael W. Chen*, CBCA 3440-TRAV, 14-1 BCA ¶ 35,729; *Flordeliza Velasco-Walden*, CBCA 740-RELO, 07-2 BCA ¶ 33,634. Although we sympathize with claimant's frustration in this situation, the Board, like the Corps, has no authority to authorize payment of a higher amount than is permitted by the relevant regulations. *See Benjamin A. Knott*, CBCA 4579-RELO, 15-1 BCA ¶ 36,019, and the cases cited therein.

Decision

The inclusion of claimant's daughter as a dependent on the travel orders authorizing lodging and per diem for the duration of the ordered evacuation from Egypt was erroneous. The Corps properly determined that it could not pay the requested expenses. The claim is denied.

CATHERINE B. HYATT
Board Judge