



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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November 30, 2015

CBCA 4973-TRAV

In the Matter of INU K.C.

Inu K.C., Somersworth, NH, Claimant.

Scott A. Tiedt, Director, Transportation and Travel Management, Department of State, Washington, DC, appearing for Department of State.

**WALTERS**, Board Judge.

Claimant, Inu K.C., has asked that the Board review the disallowance of reimbursement for a portion of her return travel in connection with her temporary duty (TDY) travel to New Delhi, India, for her agency, the Department of State. More specifically, Ms. K.C. seeks reimbursement for her connecting flight from Dubai, United Arab Emirates (UAE), to Boston, Massachusetts. For the reasons explained below, we find that the agency's disallowance was correct and therefore deny the claim.

Background

Ms. K.C., an employee of the Department of State based in Portsmouth, New Hampshire, was on official TDY travel to New Delhi, India, from May 18 until June 12, 2015. Although her TDY initially was scheduled to end on June 7, 2015, it had been extended through June 13, 2015. Because of serious family health issues, however, Ms. K.C. requested that she be permitted to return one day early, i.e., on June 12. In this connection, she states that, "after several requests," she was "advised" that there were "absolutely no flights available" for her to leave New Delhi [and fly to her ultimate destination, Boston, Massachusetts] "on that day [June 12]." As a result, she says, she was forced to book her flights through a relative in the United States, since her access to the internet in New Delhi

was limited. She flew from New Delhi to Dubai on June 12, and took a connecting flight on Emirates, the airline of the UAE, from Dubai to Boston. While ultimately obtaining reimbursement for the first leg of her trip, from New Delhi to Dubai, in the amount of \$141.35, she was denied reimbursement for the remainder of her trip to Boston (costing \$695.07), because that connecting flight back to Boston on the foreign flag carrier (Emirates) was found to be in violation of the Fly America Act, 49 U.S.C. § 40118 (2012). The agency determined that none of the exceptions to the Act set forth in the applicable regulations would apply to provide claimant with relief. Claimant asks the Board to review the agency's determination.

### Discussion

The Fly America Act calls for government agencies to “ensure that their employees fly on U.S.-flag air carriers whenever such a carrier is ‘available, if the transportation is between a place in the United States and a place outside the United States. . . .’” *Ivan J. Rios-Grajales*, CBCA 4821-TRAV, 15-1 BCA ¶ 36,124, at 176,347 (quoting *Mark Alden*, CBCA 4055-TRAV, 15-1 BCA ¶ 35,852, at 175,309 (2014) (quoting 49 U.S.C. § 40118(a)(3)(A), (B))); *see also Matthew J. Klages*, CBCA 4942-TRAV (Nov. 17, 2015). The Federal Travel Regulation (FTR), which implements the statute, likewise mandates that employees use United States flag air carriers for such travel, unless one of several regulatory exceptions specified under 41 CFR 301-10.135, .136, or .137 applies. *Rios-Grajales*, 15-1 BCA at 176,347 (citing 41 CFR 301-10.132 (2015)); *Maynard A. Satsky*, GSBCA 16632-RELO, 05-2 BCA ¶ 33,042, at 163,766). Essentially, these exceptions deal with situations where use of United States flag air carriers will cause significant inconvenience to the traveler, in terms of additional stops and lengthy layovers.

In the present instance, the agency rejects claimant's assertion (based on purported repeated advice from unidentified sources) that no other flights were available to her on June 12 that would have satisfied the Fly America Act. More importantly, the agency states, its investigation discloses that Ms. K.C. could have obtained a ticket from a U.S. flag air carrier, JetBlue, through an established code-share agreement, rather than from Emirates, on the very same flight from Dubai to Boston that Ms. K.C. used to return to the United States. In this way, the agency notes, she would have averted any additional stops or layover delays. The Board afforded claimant the opportunity to rebut the agency's statements, but she chose not to provide a reply. Accordingly, we must accept the agency's determinations as unrefuted. Under such circumstances, there is no choice under the statute and the FTR but to deny claimant reimbursement for the Dubai-Boston connecting flight.

Decision

The claim is denied.

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RICHARD C. WALTERS  
Board Judge