



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 29, 2016

CBCA 4960-RELO, 4961-RELO, 4962-RELO

In the Matters of MIGUEL E. LÓPEZ, RONALD B. CATE, and OLGA C. MUÑA

Miguel E. López, Miami, FL, Claimant in CBCA 4960-RELO.

Ronald B. Cate, Daniel Island, SC, Claimant in CBCA 4961-RELO.

Olga C. Muña, Agana Heights, Guam, Claimant in CBCA 4962-RELO.

Jacqueline D. Thompson, Human Resources Officer, United States Naval Station Rota Spain, FPO Area Europe, appearing for Department of the Navy.

DANIELS, Board Judge (Chairman).

The Department of the Navy transferred three employees from Rota, Spain, to other locations and authorized a temporary quarters subsistence allowance (TQSA) for each of them. The allowance was to cover the reasonable costs of lodging, meals, and laundry for as many of their final thirty days in Rota as each of the employees and their dependents spent in temporary quarters. Miguel E. López and his dependents resided in temporary quarters from June 1 to 30, 2015; Ronald B. Cate and his dependents resided in such quarters from May 28 to June 18, 2015; and Olga C. Muña and her dependents resided there from June 10 to July 2, 2015. The Navy granted to each of these employees TQSA amounts covering meals and incidental expenses – but only for expenses for which receipts were provided. The employees maintain that they are entitled to TQSA for additional expenses which they incurred.

The Navy's position in evaluating the claims is succinctly explained in identical email messages from the director of civilian human resources of Navy Region Europe, Africa and Southwest Asia to Messrs. López and Cate. The messages state:

The Region has a long standing policy and practice to require employees to submit receipts for their expenses, in accordance with Department of Defense policy and the Department of State Standardized Regulations (DSSR). . . . The Rota Human Resources Office decision not to reimburse you for expenses not supported by receipts is in keeping with Departmental regulations and the DSSR, and as such is the only appropriate decision that can be reached in your situation.

The region's policy misstates the applicable regulations, as has been pointed out in previous Board decisions. Our predecessor General Services Board of Contract Appeals noted – in a case involving the Navy human resources office at Rota – that the DSSR requires that applicants for TQSA provide not receipts, but rather, certifications that meal expenses claimed are accurate. *Samuel C. Stringer*, GSBCA 16369-RELO, 04-2 BCA ¶ 32,731. More recently, in another case involving a different Navy human resources office, we observed that “the agency’s demand that [employees eligible for TQSA] be able to support every meal cost with a receipt directly conflicts with DSSR 125, which provides that “[e]vidence of the daily cost of meals . . . shall be a certified statement by the employee.”” *Miriam E. Bolaffi*, CBCA 4029-RELO, 15-1 BCA ¶ 35,962. We noted further that a Department of Defense instruction on the matter, DOD Instruction 1400.25, Volume 1250, allows departmental officials to “require receipts for meals claimed under TQSA that they consider extravagant” – not every meal. *Id.* (citing DOD Instruction 1400.25, Vol. 1250, Enclosure 2, ¶ 7). After the human resources director wrote the message quoted above, we stated emphatically, “There is no requirement that the employee submit receipts as evidence of actual costs for meals, . . . despite the admonition of the agency that the employee should retain receipts for auditing purpose until final payment.” *David R. Bienvenue*, CBCA 4983-RELO, 16-1 BCA ¶ 36,286.

In responding to the three employees’ filing of cases at the Board, the Navy acknowledges our ruling in *Bienvenue*. The agency correctly maintains, however, that self-certification of TQSA meal amounts does not dictate that in every instance, the claimed amounts must be paid. As we remarked in *Bolaffi*, “reimbursement for subsistence costs incurred during relocation is for actual expenses,’ not estimates of possible expenses.” (quoting *Michael D. Fox*, GSBCA 13712-RELO, 97-2 BCA ¶ 29,217). Where an agency reasonably questions whether claimed expenses were actually incurred, a claimant will be reimbursed only if he establishes, through credible contemporaneous documentation, that the expenses were indeed incurred. *Id.* (citing *Fox* and *Stringer*).

With these principles in mind, we examine the claims of the three employees individually.

As to Mr. López, the claimant in CBCA 4960-RELO, the Navy says that it believes the amounts claimed are estimates, not actual expenses. The agency bases its position on two facts: First, the claimant submitted a voucher for the period from June 1 to 30, but that voucher was submitted on June 7, before most of the period had transpired. Second, the voucher sought reimbursement for the costs of lodging, as well as meals, during the entire period, and the actual cost of lodging turned out to be twenty-one percent less than the amount claimed. Mr. López responds that because he claimed less than two-thirds of the maximum authorized allowance for meals, the amount he seeks is reasonable. He also says that “due to much fraud with credit cards in Spain, all my meals were purchased with cash as I did the 7 years I spent in Spain.” We hold that the agency’s position is reasonable. The amounts sought are clearly estimates, not actual expenses, and therefore are not appropriate for reimbursement. Whether payment in cash was prudent or not, the claimant has effectively acknowledged that he has no documentation as to the amounts. The Navy properly denied Mr. López’s claim for TQSA in excess of the sum the agency has already paid.

As to Mr. Cate, the claimant in CBCA 4961-RELO, the Navy says that it cannot determine actual expenses for meals because the claimant submitted two different spreadsheets, and with some exceptions, the amounts on the spreadsheets for meals on particular dates differ from each other. The agency doubts that amounts ending in .00 are credible and notes that the claimant has not certified that the expenses claimed were actually incurred. In response, Mr. Cate tells us that he submitted a single spreadsheet and that the second spreadsheet was constructed by the agency. His submission contains very few amounts which end in .00, other than entries for laundry. The total claimed appears to be an accurate sum of its components (provided that dollar figures for amounts spent in euros are correctly calculated). Thus, we conclude that the Navy has not given any good cause for questioning any of the amounts claimed by Mr. Cate. We agree with the agency, however, that the claimant has not fulfilled the requirement of DSSR 125 by including a certified statement that the amounts claimed were actually expended. Certification is a formal attestation, often under hand or seal, that a statement is true. *Webster’s Third New International Dictionary* 367 (definition 1c) (1986). If Mr. Cate provides such documentation, the amount he claims shall be paid.

As to Ms. Muña, the claimant in CBCA 4962-RELO, the Navy maintains that the amounts claimed do not appear to be actual expenses. The agency points out that the claimant seeks the same amount (in even dollars) for nineteen of twenty-three breakfasts, fourteen of twenty-three lunches, and fourteen of twenty-three dinners. Ms. Muña’s only response is that the claimed amounts are reasonable because they are much less than the maximum authorized amounts. She has not persuasively rebutted the agency’s concern that the amounts do not represent expenses she actually incurred. *See Gamtessa Addisu, CBCA*

4774-RELO, 15-1 BCA ¶ 36,131 (denying meals reimbursement where claimant, without contemporaneous documentation, sought the same amount (in even dollars) for each breakfast, each lunch, and each dinner). The Navy has good cause for refusing to pay to Ms. Muña additional amounts of TQSA for meals. We deny her claim.

STEPHEN M. DANIELS
Board Judge