



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 30, 2016

CBCA 5219-TRAV

In the Matter of BRIAN J. EBEL

Brian J. Ebel, Westminister, CO, Claimant.

Kevin Osterbauer, Department of the Army, Huntsville, AL, appearing for the Department of the Army.

SHERIDAN, Board Judge.

Claimant, a civilian employee stationed at the United States Army Garrison – Kwajalein Atoll (USAG-KA), contested the agency’s denial of additional compensation for the lodging and per diem associated with his dependent spouse’s delivery of their child in Fort Collins, Colorado. We issued a decision, *Brian J. Ebel*, CBCA 4357-TRAV, 15-1 BCA ¶ 36,037, denying claimant’s request for reimbursement of the costs of extended medical leave for his dependent wife and newborn child. We concluded that evidence in the record was insufficient to support a need to extend the travel beyond the sixty-four days authorized by the agency.

Claimant submitted additional documentation from medical personnel pertinent to the duration of his dependents’ leave and asked the Board to reconsider its decision. Finding that the new evidence required the agency to exercise its discretion and reconsider the duration of medical leave it would allow, the Board remanded the matter back to the agency for consideration. The Board noted:

The agency must exercise that discretion reasonably and set forth the reasons for its determination. Typically, the Board “will not disturb an agency’s discretionary judgments unless we are convinced that they are arbitrary, capricious, or clearly erroneous.” *William T. Orders*, GSBCA 16095-RELO, 03-2 BCA ¶ 32,389, at 160,290.

Brian J. Ebel, CBCA 4357-TRAV, 15-1 BCA ¶ 36,082.

Claimant submitted travel voucher EEDENVERCOUNT061813_V01-01 in October 2015 in the amount of \$16,976.72. Claimant was assisted in the preparation of the voucher by resource management staff at USAG-KA. United States Army Space and Missile Defense Command (SMDC), claimant's employing agency, reviewed the voucher and paid claimant a total of \$16,292.84.

Claimant contacted SMDC, seeking information on why the \$683.88 difference was not paid. He was informed the case was closed but could request a copy of the case pursuant to the Freedom of Information Act. On February 26, 2016, claimant filed a claim at the Board for the \$683.88 in unpaid travel expenses. The matter was docketed as CBCA 5219-TRAV.

Claimant posits that the voucher for \$16,976.72 was correct and that \$683.88 less than that amount was paid by SMDC without notice or explanation. SMDC asserts that:

the reason for the \$683.88 difference between the claim for \$20,953.53¹ and the payment of \$20,269.65 is because claimant is not authorized reimbursement for certain lodging expenses (and associated room taxes) claimed for the time period when his spouse was hospitalized. Further, when claimant was authorized lodging he was not authorized reimbursement above the per diem rate for the area. Claimant is also not authorized reimbursement if he did not suffer any out of pocket expense for a room when the room was actually paid for by the airline when a flight was cancelled. It should be noted that the October 2015 voucher submitted on behalf of the claimant contained errors amounting to \$513.12 which was credited in claimant's favor.

The agency went on to explain in great detail how it had calculated the payment and how it had reconciled the payment against the October 2015 voucher.

Claimant responded: "I agree with most all of the points made [in the SMDC response] to the claim," and then proceeded to detail three items which claimant posits still needed correction. These three items totaled \$1854.72 and appear to be different items from those previously comprising the \$683.88 that was the subject of the current claim. SMDC,

¹ SMDC references a claim amount of \$20,953.53 whereas claimant references a claim amount of \$16,976.72. SMDC's figure is based on the total amount of two vouchers whereas claimant's figure is based on the second voucher. The expenses in issue for each claim amount totaled \$683.88.

presuming that claimant no longer disputed the issues previously raised but, instead, was raising three new expenses totaling \$1854.72, addressed each new claimed expense.

The first new item, lodging expenses during claimant's spouse's hospitalization, for which claimant seeks an additional \$446.07 of expenses, involved claimant's wrongly claiming three days of lodging expenses to which he would not be entitled if his wife was hospitalized. Claimant provided sufficient documentation of the correct dates his wife was hospitalized and SMDC agreed to reimburse claimant the \$446.07 he sought. The second item involved mandatory resort fees and claimant's assertion that he was not reimbursed \$185.88 in resort fees to which he was entitled. SMDC recounts the hotels to which resort fees were paid and maintains claimant was paid these fees, in the amount of \$185.88, and represents that "claimant acknowledges payment of tax and resort fees and agrees as noted in [attachment 2 of SMDC's response] which was prepared by claimant." The third item involved an advance payment amounting to \$1222.79 that claimant claims was collected twice. SMDC points out that the payment totals set forth in attachment 3 of its response as prove that the advance payment was only collected once.

Claimant replied that he continues to seek reimbursement for the mandatory resort fee and the advance pay. Regarding the mandatory resort fees, claimant writes:

I am not sure what was done by SMDC, things don't add up. If they did pay the fees, then they are being coded in DTS incorrectly. [A]ttachment 2 of SMDC's May 18th [submission] is a copy of the agencies [sic] original response. The column labeled USASMDC/ARSTRAT does not tally . . . if you add the numbers, they do not total the number on the bottom line. There are no entries for resort fees anywhere in the voucher.

Regarding the advance pay, claimant writes:

This issue is quite clear. In attachment 1 of the agencies [sic] response of 18 May 2016 (the travel voucher that SMDC presents as being paid) the first page does not show the collection. Then on page 5 of the same attachment, the itemized account shows the \$5199.60 advance, but does not show the \$1222.79 collection. If you follow the amounts, the collection was never accounted for. [A]ttachment 3 is a screen print from DTS, but it was clearly not paid. How it relates to anything is not clear.

Claimant concludes:

The number of days that Ms. Ebel was in the hospital is agreed. The payment of mandatory resort fees is muddled in miscoding, miscalculations and not accounted for. The DFAS collection was not accounted for in the payment.

Together this is \$446.07, \$185.86 and \$1222.79 respectively, for a total \$1854.72. This claim is correct and fully documented here and in previous submission and should be granted in full.

Discussion

SMDC has agreed to pay the \$446.07 in expenses claimant seeks in his new round of calculations. The Board has reviewed the documentation that the parties have submitted and concluded that SMDC has paid claimant \$185.86 in resort fees and has not collected the \$1222.79 twice.

Decision

The claim is denied.

PATRICIA J. SHERIDAN
Board Judge