



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 11, 2017

CBCA 5572-RELO, 5592-RELO, 5630-RELO

In the Matter of KEVIN T. AUBART

Kevin T. Aubart, Honolulu, HI, Claimant.

John St Myers, Senior Financial Systems Analyst, Enterprise Solutions and Standards, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

CHADWICK, Board Judge.

Kevin T. Aubart, a civilian employee of the Department of the Army, seeks review of the Defense Department's denials of reimbursement (or full reimbursement) of certain expenses he incurred in transferring from South Korea to Hawaii in 2016. The expenses are in six categories: dog quarantine costs, vehicle registration fees, a vehicle use tax, hotel lodging costs (all in CBCA 5572-RELO), a driver's license fee (CBCA 5592-RELO), and unauthorized residence transaction expenses (CBCA 5630-RELO). We grant the hotel claim in substantial part. Mr. Aubart provided two documents that adequately show the room price, which we grant, net of taxes and fees, which we deny. We deny all of his other claims. The agency defrayed the quarantine, vehicle, and driver's license costs, to the extent allowable, through a lump-sum miscellaneous expense allowance, and Mr. Aubart's itemized, recoverable miscellaneous expenses do not exceed the lump sum. Mr. Aubart would be entitled to residence transaction expenses, despite the lack of authorization, had he sold the home where he lived before transferring to Korea, but he has not.

We begin with the quarantine, vehicle registration, and driver's license expenses. Although Mr. Aubart claims these amounts as temporary quarters subsistence expenses (TQSE), which were authorized here, these disputed expenses are not TQSE, as they were not incurred for "subsistence." *See* Federal Travel Regulation (FTR) 302-6.2 (41 CFR 302-6.2 (2015)); *Nhia Xiong*, CBCA 5464-RELO, 17-1 BCA ¶ 36,644, at 178,462. As the

agency recognizes, these expenses fall under the allowance in the FTR and the Defense Department's Joint Travel Regulations (JTR) for "miscellaneous expenses . . . due to relocating." FTR 302-16.1; *see also* FTR 302-16.2 (listing miscellaneous expenses); JTR 5818-B.5; *Mary Sue Hay*, GSBCA 16104-RELO, 03-2 BCA ¶ 32,355.

The agency and Mr. Aubart both misstate the test for miscellaneous expense reimbursement. "The regulations provide that miscellaneous expenses may be paid in one of two alternative amounts. A specified amount is paid to an employee who does not maintain records documenting miscellaneous expenses incurred; a higher amount is paid to an employee who presents justification for such payment." *Hay*, 03-2 BCA at 160,060. The agency authorized this allowance and paid Mr. Aubart the current standard amount of \$1300 for employees relocating with dependents. FTR 302.16-102(b). It now argues that Mr. Aubart's relocation orders did not "authorize" him to itemize miscellaneous expenses exceeding \$1300. Mr. Aubart responds that he "elected" "TQSE actual expenses" rather than a lump sum. Neither argument reflects how this allowance works. Mr. Aubart could be entitled to miscellaneous expenses exceeding \$1300 if (but only if) he "present[ed] justification for such [additional] payment." *Hay*, 03-2 BCA at 160,060. No prior election or separate authorization to itemize the expenses is required.

Mr. Aubart seeks itemized miscellaneous expenses totaling \$1772.84, of which \$1442.89 was for quarantining the family dog in an animal hospital in Hawaii. Because the agency paid Mr. Aubart \$1300 toward miscellaneous expenses, only \$472.84 more (\$1772.84 - \$1300) is at issue here. We deny all of the miscellaneous expense claims because the cost of the hospital quarantine is not reimbursable, which reduces the itemized, allowable miscellaneous expenses to well below \$1300. Pet quarantine is an allowable miscellaneous expense. FTR 302-16.2 (table). By his own account, however, Mr. Aubart moved his dog, after four days, out of the quarantine provided by the State of Hawaii for \$14.30 per day, to a private animal hospital, for forty-two more days, believing that the outdoor kennel provided by the State was unsuitable for "a small, indoor dog." Incurring this extra expense for this dog was a matter of personal (or animal) preference and is not "normally associated with the transportation and handling of dogs." *Id.*

Turning to Mr. Aubart's true TQSE claim, the agency denied reimbursement of lodging expenses in Hawaii from August 15 through 26, 2016, for an insufficient receipt, which the agency argues "was not itemized to show the daily rate and taxes as required" by JTR 4130-I.2. We grant this claim in part. We have ruled in the context of travel claims that a combination of documents from an online booking service and a hotel may serve as an itemized receipt, *Scott M. Torrice*, CBCA 2431-TRAV, 11-2 BCA ¶ 34,839, and we see no reason to rule otherwise in the relocation context. Mr. Aubart submitted (1) an undated "reservation confirmation" from Expedia, which stated, "This reservation is complete. We

hope you had a great trip,” and showed charges to his credit card of \$2410.32 for twelve nights of lodging and \$336.52 for “taxes and fees,” and (2) a receipt from the hotel (not previously provided to the agency) showing that he incurred additional parking and laundry charges on August 15 and 19, respectively, which were charged to his credit card on August 27. These documents suffice to show that Mr. Aubart paid \$2410.32 to occupy the room from August 15 through 26, plus \$278.74 for parking and laundry. Room taxes would be reimbursable if they were itemized, FTR 301-11.27, but as we cannot distinguish “taxes” from unreimbursable “fees” based on the Expedia document, we deny the claim as to taxes.

In his filings with the Board, Mr. Aubart also seeks, for the first time, \$206.77 for leasing a car to commute from the hotel to work. We will not address this claim (which was not assigned a CBCA docket number), as it was not “first . . . filed with the claimant’s own department or agency.” Board Rule 401(c) (48 CFR 6104.401(c) (2016)).

Finally, Mr. Aubart seeks residence transaction expenses under FTR 302-11.2 and JTR 5908-D for the sale of a house in Minnesota, his duty location before Korea. The Army denied the claim because Mr. Aubart’s relocation orders did not authorize reimbursement of such expenses. Mr. Aubart argues that this allowance is mandated by statute because he “transfer[red] in the interest of the government.” 5 U.S.C. § 5724a(d)(1) (2012). We agree in principle. The Army must have found the transfer to be in the interest of the Government when it authorized TQSE, *id.* § 5724a(c), and the agency conceded to us in March 2017 that “the move was in the interest of the Government.” The barrier to reimbursement, as the agency notes, is that the Minnesota house for which Mr. Aubart claims transaction expenses was purchased in 2009 and was not his “[r]esidence” when he transferred to Korea in 2000 (or ever). JTR 5908-D.4(a). Mr. Aubart asks us to “order” the Army to grant him an extension to claim residence transaction expenses, but we will not address this issue because it was not raised first with the Army. Rule 401(c).

Decision

CBCA 5572-RELO is granted in part. Mr. Aubart is entitled to TQSE of \$2689.06. CBCA 5572-RELO is otherwise denied. CBCA 5592-RELO and CBCA 5630-RELO are denied.

KYLE CHADWICK
Board Judge