



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 10, 2017

CBCA 5406-TRAV

In the Matter of TREVOR E. STRAND

Trevor E. Strand, Lexington Park, MD, Claimant.

Bonnie Petree, Travel Policy, Comptroller Group, Naval Air Warfare Center Aircraft Division, Department of the Navy, Patuxent River, MD, appearing for Department of the Navy.

HYATT, Board Judge.

Claimant, Trevor E. Strand, a civilian employee of the Naval Air Warfare Center Aircraft Division of the Department of the Navy, has requested review of the agency's disallowance of his claim for an excess baggage fee incurred in connection with temporary duty travel (TDY).

Background

Mr. Strand and another Navy employee attended Marine Aviation Weapons and Tactics School in Yuma, Arizona, for approximately two months, departing from Patuxent River, Maryland, in early March 2016, and returning at the end of April 2016. They were directed to take everything that would be needed for the training with them on the commercial flight. This included flight boots, helmets, vests, night goggles, and instructional manuals. To accommodate this requirement, their travel orders authorized excess baggage fees, with the amount of \$100 shown as an apparent estimate of that approved expense.

Both travelers checked three bags on the outbound flight. For both of them, baggage fees for the first bag were \$25; for the second bag, \$35; and for the third bag, \$150. These excess baggage fees were approved for reimbursement. On the return flight, Mr. Strand and the second Navy employee checked the same three bags and incurred the same excess

baggage fees for those bags, which the agency has agreed to reimburse. The issue presented in this claim arises with respect to a fourth bag, checked by Mr. Strand on the return flight, which contained the classroom materials and items both employees were provided during the training class. The airline charged an excess baggage fee of \$300 for this bag. The approving official for Mr. Strand's travel voucher, in response to the travel office's query, advised that the fourth bag combined the books, binders, handouts, and other training materials received by both participants at the program. He surmised that the travelers had no idea the fourth bag would be so expensive until they arrived at the ticket counter after dropping off their rental car, at which point alternative arrangements, such as shipping via Federal Express or the United States Postal Service, would not have been available to them.

After reviewing the travel voucher, the Navy's travel office questioned whether the fee charged for the fourth bag should be reimbursed, asserting that the materials in that bag were not professional articles or materials needed at the next TDY or permanent duty station (PDS) location in accordance with the applicable regulation. In addition, the travel office contended that under the JTR, Mr. Strand should not be reimbursed for transporting materials for the other traveler.

Discussion

Under section 301-12.2 of the Federal Travel Regulation (FTR), airline fees charged for checked baggage may be reimbursed as miscellaneous expenses. 41 CFR 301-12.1 (2015) (FTR 301-12.2). The FTR provides the following guidance with respect to what baggage expenses an agency is authorized to pay when an employee travels for temporary duty:

(d) All fees pertaining to the first checked bag. In addition, charges relating to the second and subsequent bags may be reimbursed when the agency determines those expenses necessary and in the interest of the Government (*see* §§ 301-70.300, 301-70.301). Travelers should verify their agency's current policies and procedures regarding excess baggage prior to traveling[.]

Id. 301-12.2(d). FTR 301-70.300 and .301 provide that agencies should develop policies to limit payment of miscellaneous expenses to those that are necessary and in the interest of the Government, including who will determine when excess baggage is necessary for official travel.

The Department of Defense's Joint Travel Regulations (JTR) implement the FTR's proviso that agencies develop appropriate policies to administer the authorization and payment of miscellaneous expenses. The JTR provides generally that a "traveler should check with individual transportation carriers, prior to travel, about limitations of baggage weight, and/or size, and/or number of bags allowed, and/or waived service charges for accompanied baggage."¹ JTR 3100-A.5. Specifically with respect to the reimbursement of excess accompanied baggage, however, the JTR provides as follows:

1. Reimbursement Allowed. Examples of situations in which excess accompanied baggage may be necessary (ICW [in accordance with] official travel) are:

....

c. Professional article(s)/materials/equipment for use by an individual required for official duties are not available at the TDY/Contingency Operation Site/next PDS location as determined by the Service's Secretarial process determination. *An individual traveler may be reimbursed only for carrying articles/material/equipment needed by that traveler.*

....

2. Reimbursement Not Allowed. *Excess accompanied baggage reimbursement is not for:*

c. Professional articles/material that are/is available or are/is not necessary at the TDY/next PDS location per the Service's Secretarial Process determination, and/or

d. The traveler's preference, personal convenience or if contrary to the Gov[ernment]'s interest.

JTR 3105-D.

¹ We cannot determine from the record before us whether the agency or the claimant undertook to check the policies of the airline prior to travel.

The travel office questions whether the fourth bag checked by Mr. Strand is eligible for reimbursement under the JTR provisions set forth above, suggesting that the materials were not needed for use at the permanent duty station and pointing out that a traveler may not be reimbursed for carrying articles belonging to a different traveler.

Here, the payment of fees incurred for excess baggage was authorized and approved for both the outgoing and return flights with the determination that the travelers needed to carry with them all the equipment and other items required to participate in the course.² As participants in the course, they acquired additional articles related to their training. These items, having been provided as part of the training, were Government materials, which presumably had sufficient value to the command to justify the effort to bring them back to the Naval Air Warfare Center at the conclusion of the course. The traveler and approving official appear to have interpreted the authorization approving excess baggage charges to be incurred in connection with the travel as inclusive of items acquired in conjunction with the training. The JTR provision cited by the travel office states only that professional articles already available for use at the TDY location or at the PDS should not be transported to either location as excess baggage. We cannot determine from the information provided whether duplicate copies of the training materials were already available at the PDS or whether the materials were so integrally important to the training as to warrant personally carrying them to the PDS on the return flight. The applicable regulations contemplate that the approving official will evaluate whether it is appropriate and in the interest of the Government to check excess luggage on the flight taken by the traveler. The record here does not make clear whether the approving official has actually exercised his discretion to authorize the transport of the training materials acquired at the course as excess baggage.³ If the approving official has determined or determines that the materials qualified for inclusion under the authorization to incur excess baggage fees, this would suffice to permit payment of the excess baggage fee charged for the items provided at the course. *See Theodore T. McHugh*, CBCA 3864-TRAV, 15-1 BCA ¶ 35,846, at 175,286 (2014). If the approving official determines that the items cannot be authorized as excess baggage, Mr.

² Although the travel orders provided by the Navy show that the amount of \$100 was authorized for excess baggage expenses, it would appear that this was an estimate, not a cap, since neither the approving official nor the travel office questions the payments made for the first three bags for which fees were charged by the airline.

³ To the extent an approving official has considered a matter and exercised his or her discretion reasonably, the Board will not disturb that judgment absent a showing that it was arbitrary, capricious or clearly erroneous. *See, e.g., Brian J. Ebel*, CBCA 4357-TRAV, 15-1 BCA ¶ 36,082, at 176,179; *David R. Ferguson*, CBCA 2193-TRAV, 11-1 BCA ¶ 34,691, at 170,852.

Strand is eligible to be reimbursed for the cost that would have been charged to ship the materials via the United States Postal Service or a commercial package delivery company, up to the amount of \$300.

The other concern voiced by the travel office is that the JTR expressly limits reimbursement of excess baggage fees to necessary items and materials needed by the individual traveler. Since the two travelers combined the course training materials in one bag that was checked by Mr. Strand, the travel office is concerned that the failure to adhere to this proviso prohibits reimbursement of the fee incurred. We note that since the materials in question are presumably the property of the Navy, and not the personal property of the individual travelers, it is not clear that this requirement should apply. In any event, failure to comply with this type of requirement would not make the employee liable for the entire costs incurred, however, but rather for any excess cost that might have resulted from failure to comply.⁴ See *Robert F. Teclaw*, CBCA 1572-TRAV, 09-2 BCA ¶ 34,166, at 168,404; *Vivian E. Nichols*, GSBCA 15493-TRAV, 01-1 BCA ¶ 31,366, at 154,897. Assuming the materials were appropriately returned to the PDS, the Navy has not identified any purpose that would be served by the purely academic exercise of each traveler seeking one-half of the amount charged, with the proviso that the other traveler then reimburse Mr. Strand.

Decision

This matter is returned to the Navy for disposition in accordance with the above guidance.

CATHERINE B. HYATT
Board Judge

⁴ An internet search of airline charges suggests that the fee for the single fourth bag checked by Mr. Strand was less costly than the total fees that would have been charged if both travelers had checked a fourth bag.