



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 22, 2017

CBCA 5468-TRAV

In the Matter of APRIL L. SHEPHERD and RANDALL T. SOUHRADA

April L. Shepherd, Wasilla, AK, and Randall T. Souhrada, Anchorage, AK,
Claimants.

Capt. Caleb J. Bowers, Assistant Counsel for Legislation, Fiscal and General Law,
Office of the Chief Counsel, Headquarters, United States Army Corps of Engineers,
Washington, DC; and Matthew W. Ponzar, Associate General Counsel, Defense Human
Resources Activity, Alexandria, VA, appearing for Department of Defense.

SULLIVAN, Board Judge.

The Defense Human Resources Activity (DHRA), Defense Travel Management
Office, requested reconsideration of the Board's decision *April L. Shepherd*, CBCA 5468-
TRAV, 17-1 BCA ¶ 36,674, asserting that the matter was not ripe for adjudication. The
agency, United States Corps of Engineers (USACE), notified the Board that it has withdrawn
its claims for repayment from the claimants, Ms. Shepherd and Mr. Souhrada. We grant the
motion for reconsideration in part, vacate our prior decision, and dismiss the matter as moot.

Background

USACE presented the claims of two civilian employees, April L. Shepherd and
Randall T. Souhrada, regarding the per diem amounts that they were entitled to be
reimbursed for several trips to New Delhi, India. The claims had two components, a request
for an advance decision on the amounts due and owing on open vouchers and a request for
the review of the demands for repayment issued by USACE.

USACE initially sought an advance decision pursuant to 31 U.S.C. § 3529 (2012) and Board Rule 502 (48 CFR 6105.502 (2015)), regarding its authority to pay and seek repayment of amounts sought on travel vouchers submitted by these civilian employees. Not sure that the Board had authority to settle all of the issues presented, the Board asked USACE to clarify which of the vouchers were open and awaiting payment. The Board also explained that USACE could, on behalf of Ms. Shepherd and Mr. Souhrada, seek review of the agency's demands for repayment of amounts previously paid on travel vouchers. In response to the Board's inquiry, USACE submitted letters from both Ms. Shepherd and Mr. Souhrada consenting to USACE "seeking an advance decision [from the Board] on [their] behalf, pertaining to the propriety of billings for overpayments initiated against [them] as a result of temporary duty travel occurring to India on various periods from 2012 to 2016." USACE provided the travel vouchers submitted by Ms. Shepherd and Mr. Souhrada for their most recent trip to India, which USACE described as open and unpaid, and copies of five demands for repayment.

We decided that Ms. Shepherd and Mr. Souhrada should be paid their daily actual lodging costs and the full per diem allowance for meals and incidental expenses (M&IE) and remanded the matter to the agency so that it could determine those amounts.

Discussion

Although DHRA did not participate in the proceeding prior to the Board issuing its initial decision, we have accepted DHRA's motion for reconsideration because it is the organization responsible for the promulgation of the Joint Travel Regulations (JTR). DHRA asks the Board to reconsider its decision, arguing that the matter was not ripe for adjudication when it was presented by USACE because USACE failed to submit its request for an advance decision through the Per Diem, Travel and Transportation Allowance Committee (PDTATAC). A component of the Department of Defense "may request an advance decision on any questionable claim presented for payment. . . . [The component requesting an advance decision] on an issue involving the interpretation of the JTR must forward the request through PDTATAC." Department of Defense Financial Management Regulation, DOD 7000.14-R, vol. 9, ch. 8, para. 0808. USACE does not dispute that it failed to follow this procedure.

The Board has never been asked to decide this issue. Given DHRA's responsibility for the promulgation of the JTR, enforcing this regulation will ensure greater uniformity of guidance and decisions from the Board. We grant DHRA's motion for reconsideration and find that USACE's request for an advance decision was premature and not ripe for adjudication. *Kenneth T. Jones*, CBCA 2117-RELO, 11-1 BCA ¶ 34,712.

Turning to the other aspect of the claims presented, although Ms. Shepherd and Mr. Souhrada described USACE's submission as a request for an advance decision, the claimants clearly requested review of the pending demands for repayment. Now, however, USACE has withdrawn those demands rather than recalculate the amounts as directed by the Board. Since the demands for repayment have been withdrawn, the claims are moot. *Carol A. Heidsiek*, CBCA 5526-RELO, 17-1 BCA ¶ 36,645; *Ruth C. Rodriguez*, CBCA 5152-RELO, 16-1 BCA ¶ 36,276.

Decision

The Board grants DHRA's motion for reconsideration in part, vacates its prior decision, and dismisses the claims as not ripe for adjudication in part and moot in part.

MARIAN E. SULLIVAN
Board Judge