



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 17, 2017

CBCA 5834-TRAV

In the Matter of LOUISE J. RAMSAY

Louise J. Ramsay, DPO Area Americas, Claimant.

Scott A. Tiedt, Director, Transportation and Travel Management Division,
Department of State, Washington, DC, appearing for Department of State.

SULLIVAN, Board Judge.

Claimant, Louise J. Ramsay, seeks review of the decision of the agency, Department of State, denying her reimbursement for a portion of her airfare for a recent rest and recuperation trip. The agency based its denial upon a perceived violation of the Fly America Act (FAA). Because the agency knows that United Airlines provided travel services for that portion of the trip and the submitted documentation shows that United Airlines received the revenue for the flight, we find that the agency may reimburse Ms. Ramsay these travel costs.

Background

Ms. Ramsay sought reimbursement for the costs of a trip she took with her family from Tegucigalpa, Honduras, to Kamloops, Canada. The State Department reimbursed Ms. Ramsay the entirety of the airfare for her outbound flight and for two of the three legs of her return trip, but denied reimbursement for the portion of her trip between Calgary, Canada, and Houston, Texas. Because the supporting documentation for her claim for this leg of the trip showed an Air Canada flight number, the State Department determined reimbursement for that portion would violate the FAA. In denying the full reimbursement, the agency noted that “[a]lthough United, a U.S. carrier, actually operated the flight, it was ticketed using the flight number of a foreign carrier (Air Canada). The Department does not

have the authority to issue waivers to the provisions of the [FAA], regardless of traveler circumstance.”

Ms. Ramsay booked the trip herself through Expedia and submitted an itinerary showing flights provided by Air Canada and United Airlines from Kamloops through Calgary and Houston to Tegucigalpa. The itinerary bears confirmation numbers for both United and Air Canada. The itinerary for the Calgary to Houston leg shows an Air Canada flight number. Ms. Ramsay submitted the boarding passes for the Calgary to Houston leg, which also bear an Air Canada flight number, but also a credit card statement showing payment to United Airlines in the amount of her airfare on her itinerary.

In its submission to the Board, the agency notes that the flight from Calgary to Houston “was operated by United Airlines,” and that the tickets Ms. Ramsay purchased were “issued on United Airlines ticket stock.” The State Department also contacted United Airlines, in the evaluation of Ms. Ramsay’s claim, and was told that “the return flight itinerary was a single fare basis . . . indicating that, for the determination of fare calculation, United considered the overnight in Houston to be a connection rather than a break in travel.” Based upon this single fare determination, the agency calculated the prorated portion of the airfare from Calgary to Houston to be \$843.49. The State Department also denied reimbursement of the \$12 booking fee paid to Expedia. It does not appear that Ms. Ramsay includes this amount in her claim before the Board.

Discussion

The FAA requires that travel services financed by the Government be “provided by an air carrier holding a certificate under section 41102” to the extent such service is reasonably available. 49 U.S.C. § 40118(a) (2012). The Federal Travel Regulation (FTR), promulgated by the Administrator of General Services, also requires “[a]nyone whose air travel is financed by U.S. Government funds” to use a U.S. flag carrier. 41 CFR 301-10.132 (2017). The Foreign Affairs Manual, with which Ms. Ramsay must comply as a State Department employee, provides that “[t]he [FAA] generally requires use of a U.S. air carrier even if the cost of a ticket is less on a foreign air carrier and even if a foreign air carrier’s service is preferred by, or more convenient for, the agency or the traveler.” 14 FAM 583.1.

The FTR defines U.S. flag carrier service as:

service provided on an air carrier which hold a certificate under 49 U.S.C. 41102 and which service is authorized either by the carrier’s certificate or by exemption or regulation. U.S. flag carrier service also includes service provided under a code share agreement with a foreign air carrier in accordance

with Title 14, [CFR] when the ticket, or documentation for an electronic ticket, identifies the U.S. flag air carrier's designator code and flight number.

41 CFR 301-10.134. Tickets purchased through the domestic airline on a code-share flight are deemed not to violate the FAA because the U.S. flag carrier "is responsible for that travel service" and derives the revenue from the ticket sold on that flight. Fly America Act-Code Sharing-Transportation by U.S. Carrier, 70 Comp. Gen. 713 (1991).

The State Department, in denying full reimbursement of the airfare, focused upon the second portion of this definition, travel provided under a code-share agreement by a foreign carrier. Because Ms. Ramsay's itinerary and boarding passes bore the Air Canada flight number, the agency determined that her travel violated the FAA. But, in denying Ms. Ramsay reimbursement, the State Department acknowledged that United Airlines actually operated the flight. Moreover, in its submission to the Board, the agency notes that the tickets were issued on United ticket stock and that United considered Ms. Ramsay's trip to be one continuous trip for the purposes of fare calculation. Ms. Ramsay's itinerary bears confirmation numbers for both United and Air Canada, and Ms. Ramsay has provided proof that she paid United Airlines, not Air Canada, for the tickets for which she seeks reimbursement. All of this evidence supports the conclusion that United Airlines, a U.S. flag carrier, provided the travel. Because the travel services were provided by a U.S. flag carrier, Ms. Ramsay may be reimbursed the full cost of that travel.

Decision

The claim is granted.

MARIAN E. SULLIVAN
Board Judge