



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 5, 2018

CBCA 5977-TRAV

In the Matter of JOHN C. FREEMAN

John C. Freeman, Dixmoor, IL, Claimant.

Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for the Department of the Army.

DRUMMOND, Board Judge.

This matter is before the Board as a challenge to the agency's assessment of a debt based on a travel audit that disallowed certain expenses that had been reimbursed based on temporary duty (TDY) travel. Our role is to review the underlying travel claim to determine if the auditors properly disallowed the expenses.

The agency issued travel orders to John C. Freeman to perform TDY in Baton Rouge, Louisiana, for the period December 12, 2016, through January 9, 2017. His orders authorized him to drive to Baton Rouge, perform TDY, and then drive back to Chicago. Mr. Freeman's assignment ended early when he checked out of his hotel on January 6, 2017, returned to Chicago, and then took a combination of two days annual leave and one day "home station duty" leave before reporting to his duty station on January 11, 2017. Following his return, Mr. Freeman claimed and received reimbursement for expenses and per diem through January 11, 2017.

The agency determined through an audit that it overpaid Mr. Freeman's travel expenses by an amount totaling \$899.89. In particular, the agency states that it overpaid Mr. Freeman \$149.70 for roadside protection, \$150 for personal accident insurance, \$49.39 for

a pre-paid fuel service option, \$97 for lodging, and \$4.85 for tax¹ for each of four days - January 6, 2017, through January 9, 2017, and \$177 for meals and incidental expenses (M&IE) for days that were not covered by his travel orders, nor supported by a lodging receipt.

We begin with lodging expenses and taxes. Federal employees are entitled to reimbursement for certain expenses “when traveling on official business away from the employee’s designated post of duty.” 5 U.S.C. § 5702(a)(1) (2012). The Federal Travel Regulation (FTR) governs travel and relocation matters for federal employees. Under the FTR, to receive reimbursement for lodging costs, an employee must provide the agency with, among other documents, receipts for any lodging expenses, 41 CFR 301.52-4 (2016) (FTR 301-52.4).

The agency explains that Mr. Freeman has no receipts documenting reimbursable lodging expenses after January 5, 2017. The agency notes that his lodging receipt² shows that he checked out of his hotel on January 6, 2017, but was still reimbursed for lodging from January 6 - 9. The agency determined that it overpaid M. Freeman for lodging and lodging tax expenses for January 6, 2017, through January 9, 2017.

Mr. Freeman agrees that the agency overpaid him for lodging and lodging tax expenses for January 7, 2017, through January 9, 2017, because he was on annual leave. He argues, however, that he is entitled to lodging expenses for January 6, 2017, because he checked out of the hotel before incurring costs for January 7, 2017. The record includes no evidence that Mr. Freeman incurred reimbursable lodging and tax expenses on January 6, 2017.

We have previously held that a “[c]laimant is not entitled to payment of costs (lodging and taxes) he did not incur.” *Michael W. Eck, Sr.*, CBCA 3383-TRAV, 14-1 BCA ¶ 35,527. As Mr. Freeman had no hotel receipts documenting expenses after January 5, the agency is entitled to collect any excess amounts paid for lodging and lodging taxes.

¹ The agency determined that Mr. Freeman should have only been reimbursed \$3.88 per day for lodging taxes, not \$4.85 per day. Mr. Freeman does not contest that the hotel only charged \$3.88 per day for taxes.

² The hotel receipts also show that Mr. Freeman was charged “no show” lodging costs on December 12, 2016. The debt, if any, relating to the “no show” charges is not before the Board.

We next turn to the disallowance of certain M&IE. Mr. Freeman agrees that the agency overpaid him for M&IE for January 8 and 9, because he was on annual leave. He argues, however, that he is entitled to M&IE for January 10 and 11, because he was still on TDY. The agency states that it overpaid Mr. Freeman for M&IE for days not covered by his order, nor supported by a lodging receipt. Mr. Freeman is not entitled to recover M&IE for any day after January 7, 2017, and for that date, his date of constructive return travel, he gets 3/4 of the M&IE rate. The agency is entitled to collect any excess amount paid.

Finally, we turn to the disallowance of certain rental car expenses. As an employee of the Department of Defense, Mr. Freeman is also subject to the Joint Travel Regulations (JTR). Both the JTR and FTR state that an agency will not reimburse costs for pre-paid refueling. JTR 020209, tbl. 2-8; FTR 301-10.450(d). The FTR also states that an agency will not reimburse costs for the purchase of rental car insurance. FTR 301-10.451. Finally, emergency roadside insurance, like rental car insurance, is not a reimbursable expense. *Xiaoming M. Chen*, CBCA 2956-TRAV, 13 BCA ¶ 35,223 at 172,829.

Mr. Freeman does not argue that the agency misapplied the regulations and the holding in *Chen*. Rather, Mr. Freeman argues that he is not responsible for the debt for roadside protection, personal accident insurance, and pre-paid fuel service option because the agency's travel management service had included these expenses without his knowledge. Mr. Freeman signed the rental car agreement containing these expenses and is charged with knowledge of the contents of the agreement. He is also charged with knowledge of the rules and regulations governing travelers. The fact that the agency's travel agent may have failed to disclose these charges does not excuse Mr. Freeman from this debt. The agency is entitled to collect these expenses as well as any rental car expenses after January 7, the date of his constructive return travel.

Decision

The matter is returned to the agency for recalculation of claimant's debt in accordance with this decision.

Jerome M. Drummond
JEROME M. DRUMMOND
Board Judge