



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 14, 2018

CBCA 6059-RELO

In the Matter of DANIEL REA

Daniel Rea, APO Area Europe, Claimant.

Ilona M. Keller, Human Resources Specialist, Civilian Personnel Directorate, Department of the Army, APO Area Europe, appearing for Department of the Army.

GOODMAN, Board Judge.

This Board issued a decision in this case dated October 15, 2018, denying claimant's claim for reimbursement of the costs of alcoholic beverages purchased during his period of temporary quarters subsistence allowance (TQSA) relating to a permanent change of station move. Claimant requests reconsideration of our decision, repeating arguments which he had included in his original submission to this Board concerning a provision in the agency's employee handbook prohibiting reimbursement of alcoholic beverages and the authority of that handbook and the lack of a specific prohibition on this subject in the applicable regulations, the Department of State Standardized Regulations (DSSR).¹

We did not address claimant's arguments concerning the handbook in our October 15, 2018, decision denying his claim, because the agency's decision to deny reimbursement was not based upon the provision in the handbook. However, as claimant has reiterated these arguments in his request for reconsideration, we address them here.

¹ We previously issued a decision dated November 1, 2018 denying claimant's request for reconsideration. We issue this additional decision in response to claimant's request for clarification of that decision.

Claimant reasserts the following arguments in his request for reconsideration:

There is no regulation, or signed policy letter issued by an installation commander (or higher), excluding alcohol from the “meals” portion of the TQSA rate. The only reference to the exclusion of alcohol is in the CHRA [Civilian Human Resource Agency] Employee Handbook.^[2] This handbook is unsigned; it appears to be a collection of information only, but this is the guide that all CHRA personnel use for making decisions on claims.

TQSA is governed by Dept. of State’s DSSR (referenced in the Handbook), which only states that [the employee] is authorized reimbursement of meals, but does not further define this.

To further support his argument, claimant cites our previous decision in *David R. Bienvenue*, CBCA 4983-RELO, 16-1 BCA ¶ 36,286, which held that “an agency cannot issue rules or regulations which run afoul of the express purpose stated by Congress or as implemented through regulation by the properly charged agency.” 16-1 BCA at 176,959 (citing *Charles A. Houser*, CBCA 2149-RELO, 11-1 BCA ¶ 34,709 at 171,112.)

Claimant therefore argues that because the DSSR does not specifically deny reimbursement for alcoholic beverages, to deny reimbursement so would be contrary to statute or regulation. In our decision denying the claim, we found this argument lacked merit. We stated:

While the DSSR does not contain a specific prohibition against reimbursement of alcoholic beverages, the lack of a specific prohibition does not restrict the agency’s discretion when determining TQSA reimbursement.

Daniel Rea, CBCA 6059-RELO, slip op. at 2 (Oct. 15, 2018).

While claimant is correct that the DSSR does not address the reimbursement of the costs of alcoholic beverages, the lack of a specific exclusion does not require the agency to reimburse these costs or bar the agency from denying reimbursement of such costs as a reasonable exercise of its discretion. We found that the agency’s decision not to reimburse costs for alcoholic beverages was a reasonable exercise of its discretion *granted by* the

² The provision in the handbook to which the claimant refers reads: “Specifically excluded are alcoholic beverage . . . expenses.” We refer to this provision as the exclusion provision.

applicable statute and regulations,³ i.e., to determine whether costs incurred by employees for meals were reasonable and necessary. Unlike the circumstances in *David R. Bienvenue*, the agency's decision in this case was not contrary to statute or regulation.

We did not address the issue of the authority of the agency's handbook in our decision denying the claim, because the agency official with the authority to determine reimbursement of relocation costs did not base the denial of claimant's claim upon the exclusion provision in the handbook when exercising the agency's discretion to deny reimbursement of the costs of alcoholic beverages. The Board also did not rely upon the exclusion provision in the handbook to resolve the claim. Even so, the exclusion provision is not, as asserted by claimant, contrary to statute or regulation, but consistent with the agency's decision, made by reasonable exercise of its discretion, to deny reimbursement of the costs of alcoholic beverages.

Claimant's previous arguments which he has repeated in his request for reconsideration do not change our prior decision. Mere disagreement with the Board's decision or reargument of points already made is not a sufficient ground for seeking reconsideration. Rule 407.

Claimant's request for reconsideration is denied.

Allan H. Goodman
ALLAN H. GOODMAN
Board Judge

³ The Overseas Differentials and Allowances Act, 5 U.S.C. §§ 5921 et seq. (2012), the DSSR, and the Joint Travel Regulations (JTR).