



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 15, 2018

CBCA 5904-TRAV

In the Matter of RANCE A. SCARBOROUGH

Rance A. Scarborough, Marysville, WA, Claimant.

Risa Salsburg, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC, appearing for Department of Homeland Security.

SOMERS, Board Judge (Chair).

The Federal Emergency Management Agency (FEMA) seeks reconsideration of our decision in *Rance E. Scarborough*, CBCA 5904-TRAV, 18-1 BCA ¶ 36,992. We found Mr. Scarborough entitled to an additional \$88 of per diem for meals and incidental expenses (M&IE) related to his travel on October 10 and 11, 2017. FEMA alleges that Mr. Scarborough was neither eligible nor entitled to per diem on October 11. FEMA's request constitutes "mere disagreement with a decision" and "re-argument of points already made" and therefore fails to present sufficient ground for reconsideration. 48 CFR 6104.407 (2017). Although we deny FEMA's request, the arguments raised by the agency merit discussion.

Mr. Scarborough was eligible for per diem on October 11, 2017. To be eligible for per diem, an employee must "perform official travel *away* from [his] official station, or other areas defined by [his] agency." 41 CFR 301-11.1(a)(2016)(emphasis added). FEMA defines "official station" as the "area encompassing a 50 mile radius fixed around the traveler's [Permanent Duty Station] where the traveler regularly performs his/her duties." FEMA Manual 122-1-1, Travel Policy Manual, Appx. D(55). If an employee fails to depart the fifty mile perimeter of his official station, he fails to "perform travel *away* from [his] official station" and is therefore ineligible for per diem. *See Dane Hanson*, CBCA 2666-TRAV, 12-2 BCA ¶ 35,071 (denying per diem reimbursement for departing employee who booked hotel within his official station after his flight was rescheduled); *see also Ronald Majtyka*, GSBCA 16120-TRAV, 03-2 BCA ¶ 32,388 (denying per diem reimbursement for air traffic

controllers directed to book accommodation near their office during a major snow storm). However, if an employee “travel[s] away” from his official station, he remains eligible for per diem on his return. *See Michael N. Heinz*, CBCA 2696-TRAV, 12-1 BCA ¶ 34,999 (reimbursing fatigued returning traveler for lodging within the perimeter of his official station); *Mark E. Byers*, CBCA 2371-TRAV, 11-1 BCA ¶ 34,763 at 171,094 (reimbursing returning traveler for lodging within his official station during a blizzard).

In *Rance E. Scarborough*, the claimant *traveled away* from his official station around Bothwell, WA, as authorized. 18-1 BCA at 180,158. He is therefore eligible to receive per diem on his return for each day he was entitled to it.¹

Mr. Scarborough was entitled to per diem on October 11, 2017. Entitlement to per diem “ends on the day you return to your home, *office*, or other authorized point.” 41 CFR 301-11.9 (2016)(emphasis added). Entitlement does not end on the day an employee crosses into the perimeter of their official station. *See Mark E. Byers*, 11-1 BCA at 171,094 (finding appellant’s entitlement “had not ceased simply because the airplane had touched ground at the Atlanta airport ... they were entitled to per diem reimbursement ... until the day they were able to return to their homes, i.e., the authorized points for return under their travel orders”). Mr. Scarborough arrived within his official station when his plane landed at Tacoma International at 11:59 p.m. on October 10, but he had not yet reached his “home, office, or other authorized point.” *Rance E. Scarborough*, 18-1 BCA at 180,157. Mr. Scarborough continued his travel on the morning of October 11 by de-boarding his plane, moving through the airport and traveling by taxi to his PDS in Bothell, WA. *Id.* at 180,158.

We reject FEMA’s argument that Mr. Scarborough’s “official station” should be considered an “other authorized point.” *See* Request at 2, fn. 1. Claimant’s travel authorization does not designate his official station as his authorized point of departure or return. Nor does FEMA’s travel manual define an employee’s official station as an “other authorized point” from which official travel begins or ends. *See* FEMA Manual §§ 2-2(A)(3)(a), 4-2(b)(1)(a), 5-2(A)(1), Appx. D(55).

Finally, FEMA is incorrect in asserting that Mr. Scarborough cannot collect a lump sum M&IE payment without producing evidence of actual expense. Although an employee

¹ Although returning employees may be eligible and entitled to per diem within their official station, they must still exercise “the same care in incurring expenses that a prudent person would exercise if traveling on personal business.” 41 CFR 301-2.3. Unnecessary expenses incurred within one’s official station are non-compensable. *See Herman T. Whitworth*, GSBGA 14401-TRAV, 98-2 BCA ¶ 29,804.

must “incur per diem expenses while performing official travel” to be eligible for per diem, he does not need to produce receipts for expenses valued at less than \$75. 41 CFR 301-11.1(b); *see id.* at 301-11.25; *see also Xavier Mims*, CBCA 2063-RELO, 10-2 BCA ¶ 34,605 (reimbursing employee for 30 days of meal expenses for which he could not provide receipts, where total cost exceeded \$800, but no claimed meal exceeded \$75). Where the entitlement is a lump sum, “there is no requirement for receipts to justify that the money was spent.” *Steven L. Meints*, CBCA 2921-TRAV, 13 BCA ¶ 35,249 at 173,042; *see Jeremy L. Parr*, CBCA 4641-TRAV, et al., 15-1 BCA ¶ 36,129 at 176,353; *Heather M. Morgan*, CBCA 3982-TRAV, 15-1 BCA ¶ 35,945. Mr. Scarborough signed his travel voucher on October 12, verifying the accuracy of his claim to M&IE. *See* FEMA Travel Manual §§ 9-3(E)(3) (“travelers are responsible for verifying the accuracy of the Travel voucher ...”). He was not obligated to do more.

Decision

The agency’s request for reconsideration is denied.

Jeri Kaylene Somers
JERI KAYLENE SOMERS
Board Judge