



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 3, 2018

CBCA 5608-TRAV

In the Matter of ASEEL J. SULAMAN

Aseel J. Sulaman, Hawthorne, CA, Claimant.

Mary Kay Marlowe, Civilian Attorney Advisor, Office of the Staff Judge Advocate, United States Army Central, Shaw Air Force Base, SC, appearing for Department of Defense.

VERGILIO, Board Judge.

The claimant seeks to be paid temporary duty (TDY) entitlements. While on TDY outside the continental United States (OCONUS), the claimant lodged at a government installation and had meals available, all at no cost to her. The claimant is entitled to three-quarters of the per diem for meals and incidental expenses on the travel day at the start and end of the TDY and to no more than incidental expenses established in regulations for non-travel days when not on leave. The claimant has not demonstrated entitlement to payment of expenses incurred for her pet cat in connection with the TDY assignment.

The claimant, Aseed J. Sulaman, as a civilian employee of the Department of the Army, had a permanent duty station in Qatar during much of 2015. On December 15, 2015, the claimant departed from there for a TDY assignment in Kuwait as an emergency essential civilian employee in a contingency operation. While at the TDY location, the claimant was provided lodging and meals without cost to her. During her TDY, the claimant returned to Qatar, taking leave for the period June 3–17, 2016, and being absent without leave for the period June 20-30, 2016 (June 18-19 was a weekend). The claimant departed the TDY location on September 10, 2016.

The claimant and agency have produced no documents issued prior to the TDY period, which authorized the TDY assignment or indicated benefits. Five authorizations for TDY travel, each with a date issued of May 17, 2016, indicate a range of total estimated

reimbursable costs of \$0, \$1399.99, \$2330.99, and \$115,396.50. The claimant received no reimbursement for TDY lodging, meals, or incidental expenses while on TDY. Since that date, the claimant has received, for meals and incidental expenses, \$157.50 for the travel day at each end of the TDY period, and \$931, calculated using the flat rate of \$3.50 per day for 266 days.

Regarding the first amount, the rates for local meals and incidental expenses in December 2015 and September 2016, when claimant traveled to and from Kuwait, totaled \$105. Three quarters (utilized for travel days) of this amount is \$78.75. Joint Travel Regulations (JTR) 4065, 4080. This supports the calculations and payment by the agency of \$157.50 for the two travel days.

As to the second amount, regulations establish \$3.50 as the daily amount for incidental expenses to be paid when lodging and meals are provided at Government expense. JTR 4220-A.2.b(1). The agency made its calculations using this amount per day for 266 days. However, the 269-day period between December 15, 2015, and September 10, 2016 (not inclusive of travel days), less the twenty-eight days when the claimant was on leave (personal leave or absent without leave) is 241 days. The claimant received \$87.50 more than she was entitled to receive ($241 \times \$ 3.50 = \843.50).

The claimant also seeks reimbursement for expenses she incurred related to her cat (e.g., boarding, medicine, and care). There is no statutory or regulatory basis which grants a TDY employee specific compensation for costs incurred relating to a pet. Regarding reimbursement of expenses relating to the cat incurred in connection with her time in Qatar (after the TDY period) and the relocation from Qatar to CONUS, those matters do not fall within the claim for TDY entitlements, and cannot be resolved in this case.

In submissions following her initial request to be paid TDY entitlements, the claimant seeks payment for herself (for after the TDY period) and for her pet cat (during the period of TDY and subsequently while at her Qatar duty station and in connection with her return to the continental United States (CONUS)). Given that the claim is for TDY entitlements, questions raised relating to payment for other than her TDY assignment are not before the Board in this case, and therefore cannot here be resolved. Rule 401(c) (48 CFR 6104.401(c) (2017)); *Rodelio A. Japon*, CBCA 5798-RELO, 18-1 BCA ¶ 38,984.

The claimant raises other theories for recovery. Factually, the theories lack credible support in the record, and legally, even if facts were construed in claimant's favor, there is no entitlement. The claimant asserts that the lodging provided was not adequate, as she seeks to be paid the daily lodging rate for the area or a fixed rate. This argument fails for two separate reasons. First, the claimant has not demonstrated that the lodging was inadequate.

The agency states that the lodging was in accordance with policy requirements and the same as that provided to other personnel of the claimant's grade in a contingency operation on TDY to the area. Second, an employee is not entitled to the lodging portion of the per diem, but rather to the amount expended on lodging up to the per diem amount. The agency had not authorized a flat rate per diem for long term TDY for lodging and meals because government quarters were available and the agency provided meals at no cost to the claimant. JTR 4130, 4250. Having spent nothing on lodging for the TDY period while at the TDY location, the claimant can recover no money.

Further, although the claimant maintains that the agency required her to expend excess time on the TDY assignment—more than the claimant anticipated when accepting the permanent duty assignment in Qatar—the claimant has not demonstrated that the length of the TDY, particularly under the circumstances, was excessive or violative of travel or any other applicable statute or regulation that would alter her compensation.

The claimant is not entitled to additional reimbursement in connection with her TDY assignment.

Joseph A. Vergilio
JOSEPH A. VERGILIO
Board Judge