



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 19, 2019

CBCA 6382-TRAV

In the Matter of WINSTON S. ZACK

Winston S. Zack, Portland, OR, Claimant.

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

SULLIVAN, Board Judge.

Claimant, Winston S. Zack, appeals the agency's demand for repayment of charges that the agency mistakenly reimbursed. The agency, the United States Army Corps of Engineers (USACE), demands repayment of rental car refueling charges because Mr. Zack has not shown that he met the requirements for reimbursement of refueling charges by the rental car company. We deny Mr. Zack's claim.

Background

As part of official travel to Austin, Texas, Mr. Zack was authorized to rent a car. When he returned his car at the end of his trip in February 2018, the rental car company charged Mr. Zack for "fuel & service" in the amount of \$135.86. Mr. Zack was unaware of this charge, in part, because he refueled the rental car the day before returning it to the rental car company. Mr. Zack sought and received reimbursement of this charge along with other expenses of his travel.

In February 2019, USACE demanded repayment of the fuel charge. Upon receiving USACE's demand, Mr. Zack contacted the car rental company to challenge the charge, but

was told that the company does not maintain rental records for longer than six months and could not assist him. Mr. Zack appealed USACE's demand for repayment to the Board.

Discussion

The Federal Travel Regulation (FTR) only permits an agency to reimburse car rental refueling charges when "it is not possible to refuel completely prior to returning the vehicle because of safety issues or the location of closest fueling station." 41 CFR 301-10.450(d) (2017). The Joint Travel Regulations (JTR), to which Mr. Zack also is subject as a civilian Department of Defense employee, provide the same limitation. JTR 020209. Mr. Zack does not contend that he could not refuel the car prior to returning to the airport. Instead, he asserts that he was unaware that he was charged these amounts. Federal employees are expected to "exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business." 41 CFR 301-2.3. Mr. Zack had a duty to review his receipt prior to leaving the car rental company or submitting his request for reimbursement and address any improper or erroneous charges.

Mr. Zack asserts that he should not be held responsible for these charges because the agency did not identify the error for almost a year. Because of the delay, when Mr. Zack contacted the rental car company to dispute the charges, the rental car company no longer had the records available and could not provide Mr. Zack any relief. The fact that the agency erroneously reimbursed Mr. Zack the charges and then took almost a year to discover the error does not alter the result in this matter. The agency's time in reviewing the travel receipts does not eliminate Mr. Zack's responsibility for ensuring that the charges were proper and accurate.¹

Decision

Mr. Zack's claim is denied. Mr. Zack owes the agency \$135.86.

Marian E. Sullivan
MARIAN E. SULLIVAN
Board Judge

¹ Mr. Zack requested a hearing in his submission to the Board. Given the nature of the issues, a hearing is not "part of this process." *Donald C. Barnes*, CBCA 4089-TRAV, 15-1 BCA ¶ 35,985, at 175,811.