



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 25, 2020

CBCA 6930-RELO

In the Matter of LISA L.

Lisa L., Claimant.

LaToya C. Isaac, Office of General Counsel, National Geospatial-Intelligence Agency, Springfield, VA, appearing for Department of Defense.

SULLIVAN, Board Judge.

Upon claimant's return from an extended training assignment, the agency, National Geospatial-Intelligence Agency (NGA), reimbursed her for costs for which she was ineligible. Realizing its error, the agency sent claimant a debt notification letter seeking repayment of \$13,164.60.¹ Claimant requests that the Board waive her debt.

Background

Claimant was selected for a three-year PhD program through NGA's Competitive Call Program, which is governed by the Government Employees Training Act (GETA),

¹ In an attachment to its notification letter, the agency states that claimant may seek review with the Board, pursuant to the Contracts Disputes Act, 41 U.S.C. §§ 7101–7109 (2018). The agency's notice is incorrect. The Board's authority to review travel and relocation expense claims for federal employees arises from 31 U.S.C. § 3702, which gives the Administrator of General Services final review authority for such claims. That review authority has been delegated to the Board. *Willie J. Chandler*, CBCA 5286-RELO, 16-1 BCA ¶ 36,348.

5 U.S.C. ch. 41 (2018). The program was located outside of the area of claimant's permanent duty station (PDS).

Claimant received temporary change of station (TCS) allowances for her travel to the training. The agency realized that as a civilian employee assigned under GETA claimant was ineligible for TCS per Joint Travel Regulations (JTR) 053714-B.4, so it corrected claimant's travel order for her return trip. The corrected travel orders were for permanent change of station (PCS) and included household goods (HHG) shipment and dependent allowances in accordance with JTR 032602. However, the travel orders also incorrectly provided claimant allowances for a house-hunting trip (HHT), miscellaneous expense allowance (MEA), temporary quarters subsistence expenses (TQSE), reimbursement of residence transactions, and relocation services, all of which claimant was ineligible for under JTR 0326 and GETA.

In reliance on these travel orders, claimant incurred certain expenses and was reimbursed for HHT, MEA, TQSE, residence transactions, and relocation services. At some point, the agency realized this error and sent claimant a debt notification letter seeking repayment of \$13,164.60 for the improper reimbursements.

Discussion

Claimant asks that we waive her obligation to repay the amount the agency seeks because it would create a financial burden on her. We do not have authority to waive a debt. *Gwannette M. Claybrook*, CBCA 6594-RELO, 20-1 BCA ¶ 37,554; *Anthony W. Reed*, CBCA 6197-RELO, 19-1 BCA ¶ 37,230 (2018). Only the head of the agency from which the debt arose has the authority to waive a debt to the agency. *Claybrook*; *Reed*. Therefore, we "consistently dismiss[] requests that we waive debts, arising out of erroneous payment of travel or relocation expenses, which are owed by employees to their agencies." *Vernon E. Stewart*, CBCA 5987-TRAV, 18-1 BCA ¶ 37,000; *see, e.g., Sydney C. Kaus*, CBCA 3744-RELO, 14-1 BCA ¶ 35,731; *RuthAnne S. Darling*, CBCA 1461-TRAV, 09-2 BCA ¶ 34,153.

Here, claimant's initial travel orders provided her TCS allowances notwithstanding the fact that she was a civilian employee assigned to training pursuant to GETA. This was an error because, under JTR 053714(B)(4), a civilian employee assigned under GETA is ineligible for a TCS assignment. Upon realizing this error, the agency changed claimant's travel orders for her return trip to provide HHG shipment and dependent allowances in accordance with JTR 032602, which is the applicable regulation for training outside an employee's PDS.

Now traveling under JTR 032602, in addition to GETA, claimant was not eligible for the HHT,² MEA,³ TQSE,⁴ reimbursement of residence transactions,⁵ and relocation services.⁶ Claimant's travel orders erroneously reflected an entitlement to such allowances and claimant relied upon these orders when she incurred these expenses.

Unfortunately for claimant, erroneous travel orders, even those on which an employee detrimentally relies, "cannot create an entitlement that does not exist in statute or regulation." *George Panos*, CBCA 4946-RELO, 16-1 BCA ¶ 36,402. When extra payments are erroneously made to an employee, that employee is not entitled to those payments and has an obligation to repay them. *Eric B. Fort*, GSBCA 16302-TRAV, 04-1 BCA ¶ 32,541 (2003). Neither the Board nor the agency has the authority to waive the applicability of the JTR. *Judith H. Scharf*, CBCA 1162-RELO, 08-2 BCA ¶ 33,899.

Decision

The claim is denied.

Marian E. Sullivan

MARIAN E. SULLIVAN

Board Judge

² See JTR 054001-A.3 (HHT may not be authorized for a civilian employee in training at a location in section 0326 who is authorized dependent or HHG transportation).

³ See JTR 054101-B.5 (a civilian employee authorized transportation for dependents or HHG to or from a training location under JTR 032602 is ineligible for MEA).

⁴ See JTR 054202, tbl. 5-83(2)(f) (TQSE is not authorized for a civilian employee authorized or approved dependent or HHG transportation to or from a training location in JTR 032602).

⁵ See JTR 054501-A.3 (a civilian employee at a training location who is authorized dependent and HHG transportation under the provisions of JTR 0326 is ineligible for reimbursement of residence transactions).

⁶ See JTR 0546 ("Relocation services are not authorized for . . . a civilian employee assigned under the Government Civilian Employees Training Act.").