



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 12, 2021

CBCA 6949-RELO

In the Matter of ERIN R.

Erin R., Claimant.

Patrick S. Kim, Office of General Counsel, National Geospatial-Intelligence Agency, Springfield, VA, appearing for National Geospatial-Intelligence Agency.

CHADWICK, Board Judge.

The National Geospatial-Intelligence Agency (NGA) issued amended travel orders signed at the wrong level of authority to approve the claimant's request for premium airfare for a relative. The agency blamed the claimant for the mistake, asking us to deny the claim because "[c]laimant failed to follow required guidance," even though the record shows she repeatedly sought advice in vain and was told that her request for amended orders would be routed "from the Analysis Director . . . up the chain" to the agency Director. Now, the agency acknowledges that the two officials who signed the amended orders did so "based on a misunderstanding" of the required approval authority, fostered by the agency's inadequate "internal policies addressing premium class travel." We cannot grant the claim, but we encourage further review by the agency.

The agency transferred the claimant from a position in the United States to an overseas position. It issued travel orders in February 2019 and amended the orders in July 2019, shortly before the relative's travel date. The amended orders were signed by two officials of the agency's Records and Relocation Branch and authorized business class airfare for the relative "due to [a] medical condition."

After the travel, the agency told the claimant that it could not "process reimbursement for the business class airfare . . . as the approval of that airfare did not follow the required steps called out in the Joint Travel Regulations (JTR). The only authorit[y] who may

authorize or approve premium class travel . . . is the [Department of Defense] Administration and Management Director [and] the authority may be delegated no lower than a three-star or civilian-equivalent level.” The claimant sought our review. Although we disapprove of the agency’s initial response to the Board—which failed to explain the claimant’s fully executed, amended orders and faulted her for, among other things, not “engag[ing] with her supervisor or staff officers to assist in the routing process,” prompting us to call for a second response—the agency’s original explanation to the claimant was correct.

The Federal Travel Regulation authorizes “other than coach-class airline accommodations only when [the] agency specifically authorizes/approves” the expense. 41 CFR 301–10.123 (2019). The JTR permit a defense agency to delegate the authority to approve business class travel for a medical reason to officials no lower than three-star officers or equivalent civilian officials (at level 5 or 6 of the Senior Executive Service). JTR 020206-K & tbl. 2-5 (July 2019). We take notice that the NGA Director is a vice admiral, which would make him, as the agency says, “the only official at NGA at the three-star or equivalent level.” An internal agency memorandum confirms that the Director authorizes business class travel. Because “no individual with authority ever exercised discretion” as to the airfare, “we have no basis for ordering the agency to pay.” *Miriam E. Bolaffi*, CBCA 4029-RELO, 15-1 BCA ¶ 35,962. Even travel guidance as affirmatively misleading as was given here “cannot bind the Government or alter the Government’s obligations.” *Id.*; see *Andrew J. Marks*, CBCA 672-RELO, 07-2 BCA ¶ 33,602.

The Director has authority, however, to amend the claimant’s orders again retroactively to add the Director’s signature, should he conclude based on all the facts and circumstances that the July 2019 amended orders “omitted [his] authorization [solely] through error or inadvertence.” *Thomas A. McAfoose*, GSBCA 15295-RELO, 00-2 BCA ¶ 31,009; see JTR 010206-A.

Decision

We return the claim to the agency for the Director to exercise his discretion by considering whether to correct the agency’s error.

Kyle Chadwick
KYLE CHADWICK
Board Judge