



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 19, 2021

CBCA 6894-TRAV

In the Matter of ROBERT K.

Robert K., Claimant.

Connie J. Rabel, Director, Travel Mission Area, Enterprise Solutions and Standards, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

O'ROURKE, Board Judge.

Claimant, Robert K., a civilian employee with the United States Army (Army), and his spouse performed round-trip travel from Germany to the United States under renewal agreement travel (RAT) orders. Claimant sought reimbursement of travel expenses, including an application fee for his spouse's lawful permanent resident card (green card). The agency denied the expenses on the basis that claimant was not relocating, but merely renewing his tour of duty at the same overseas location. Claimant sought the Board's review of the agency's determination, which we return to the agency for further examination.

Background

After completing a tour of duty with the Army in Wiesbaden, Germany, claimant signed an agreement to perform a second tour of duty at the same location. As part of that agreement, claimant received certain benefits, including RAT, which entitled claimant and his spouse to round-trip travel back to the United States, at government expense, in between assignments.

In September 2019, claimant and his wife used their RAT benefits. After returning to Germany, claimant filed their travel vouchers, requesting reimbursement of various travel-related expenses, including \$540 for his spouse's "I-90 fee." Form I-90 is an application to

replace a lawful permanent resident card, or “green card.” On January 2, 2020, the agency denied the fee on claimant’s voucher, stating:

I-90 fee is a US fee [sic] is a US residency related fee related for [sic] a “green Card” for spouse. Immigration expenses not reimbursable. Not a reimbursable expense. MEA/Miscellaneous expense is not payable on a RAT claim. Please see = your local HR for further assistance.

The agency performed a second review and followed up with claimant, stating: “Did not pay Residency Card Fee as Citizenship/Immigration Fees are not Reimbursable.” Claimant disagreed and asked the Board to review the agency’s determination.

Discussion

In his request to the Board, claimant acknowledged that civilians performing RAT are not eligible for a miscellaneous expense allowance (MEA), but contended that such expenses are reimbursable as miscellaneous reimbursable expenses (MRE) under the Joint Travel Regulations (JTR), which stated at the time of claimant’s travel:

For costs related to a change in status or obtaining a visa, passport, or green card, when required for official travel, reimbursement is authorized for: required photographs; mandatory biometric fees; dependent fees (for example, United Kingdom Clearance fee); legal fees, if required by local laws and customs for obtaining and processing applications.

JTR 0204, tbl. 2-24, item 10 (Sept. 2019).

The agency acknowledged that this provision authorizes reimbursement for green card expenses, but argued that the language at JTR 053603 “makes reference to when a civilian employee relocates,” and since claimant was performing an additional tour at his same duty station, not relocating, he is not entitled to reimbursement of this fee. We disagree with this reasoning. Eligibility for travel allowances is defined in section 053701, which states that employees performing RAT are eligible to receive travel allowances. The next section, 053702, addresses dependent eligibility for travel and transportation allowances, and states, “The traveler must be a dependent on the PCS [permanent change of station] order’s effective transfer or appointment date for dependent travel and transportation allowances to be authorized.” Consistent with that provision, claimant’s spouse was listed on his RAT orders as a dependent eligible for travel allowances. *See also* JTR 053702, tbl. 5-66, item 2 (authorizing travel allowances for dependents of employees reassigned to the same permanent duty station (PDS) overseas).

Furthermore, unlike MEA, MRE allowance *was not specifically disallowed* for personnel performing RAT. *See* JTR 054101-B.3 (“The following personnel are ineligible to receive an MEA . . . [a] civilian employee performing RAT”), 055002 n.1 (“There is no dependent per diem, HHG [household goods], TQSE [temporary quarters subsistence expense], MEA, or real estate allowances in connection with RAT.”). No such parallel provision existed for MRE. Having established that claimant and his spouse were eligible to receive MRE, we now examine whether this particular expense—an I-90 fee—was properly claimed for reimbursement on claimant’s travel voucher.

We focus our review on the specific language of table 2-24, item 10 to ascertain whether, in the circumstances here, the I-90 fee was payable as MRE. As we previously noted, this provision authorized reimbursement for “costs related to a change in status or obtaining a visa, passport, or green card, *when required for official travel*” (emphasis added). Official travel is defined by the JTR as “authorized travel and assignment solely [related to] Government business.” JTR app. A. Official travel may be performed in the PDS or vicinity or to and from any combination of the actual residence, PDS and temporary duty locations. *Id.* Claimant’s RAT was authorized by official travel orders issued by the agency, and was the basis for the official funding of his and his spouse’s round-trip travel to the United States between tours of duty in Germany. For these reasons, we find that when claimant and his spouse performed RAT, they were performing “official travel.”

The next question we must answer is whether the fee was required to perform the official travel. Decisions from a predecessor board have previously determined that such fees are reimbursable when required for official travel. *See Albert Carter, Jr.*, GSBCA 15435-RELO, 01-1 BCA ¶ 31,404 (allowing reimbursement of fees paid for immunizations that were required to obtain visas for official travel); *Bruce Brouillard*, GSBCA 15291-RELO, 00-2 BCA ¶ 31,056 (allowing reimbursement of fees associated with obtaining an immigration visa for the employee’s wife, because the fee was required in order to travel from the overseas duty station to the new duty station in the United States); *see also Tracey L. Huckaby*, B-225992 (July 13, 1987) (finding that regulations permitted, as miscellaneous expenses associated with official travel, reimbursement of fees paid in connection with the issuance of passports and costs for photographs and for securing certificates of birth, health, and identity); *Lawrence B. Weier*, B-157347 (Aug. 26, 1965) (finding entitlement to reimbursement of fees paid for the application and issuance of visas for dependents who were German citizens accompanying employee on official travel).

In this case, the record provided little information about the fee, such as whether the card was lost, had expired, or was soon to expire, and whether claimant’s spouse would have been precluded from performing RAT without the green card. If the green card was *not* required to perform the RAT, then claimant would not be entitled to reimbursement of any

associated fees. If, on the other hand, the green card was required to perform the RAT, then all or part of the claimed fee may be reimbursable consistent with table 2-24, item 10.

The JTR in effect at the time of their travel stated: “[R]eimbursement is authorized for: required photographs; mandatory biometric fees; dependent fees (for example, United Kingdom Clearance fee); legal fees, if required by local laws and customs for obtaining and processing applications; inoculations . . . and required physical examinations.” JTR 0204, tbl. 2-24, item 10. The language of this provision, which was revised in mid-2017, appears to limit expenses to the fees specified, and would not have supported a general processing fee, unless a “dependent fee” or “legal service fee” could be construed as such.

Previous versions of the JTR provided more information regarding the allowability and eligibility of various MRE. For example, in 2016, the relevant JTR provision, JTR 2830-G (Feb. 2016), listed in alphabetical order the miscellaneous expenses that may be reimbursable. Under the section for “Passport, Visa, Green Card, Photographs, Physical Exams, and Legal Services,” it permitted “reimbursement of expenses [in connection with] passports, visas, green cards, photographs, physical exams, and legal services under the applicable circumstances.” For an employee undergoing a PCS, reimbursement of such fees was authorized at section A.2 when the employee was “assigned to a foreign OCONUS [outside the continental United States] area under a service/renewal agreement and required for initial or continued assignment.” At section A.4, the same provision authorized a dependent’s reimbursement of these fees for PCS travel “when the dependent’s sponsor is assigned to a foreign OCONUS area and required for initial or continued assignment.” That version also provided, at B.3(a)(4), for “legal services fees” that included “processing applications for . . . [a] green card.” In 2013, the JTR identified green card fees as a MRE for dependents of employees when “[r]equired to obtain/renew a passport, mandatory biometric visa requirements, and/or visas as a result of the sponsor’s continued assignment/employment in a foreign OCONUS area.” JTR app. G, tbl. (Reimbursable Expenses on Official Travel) (Feb. 2013).

Since those versions did not contain the same limiting language as the JTR in effect at the time of claimant’s spouse’s travel, we interpret that change as deliberate. However, without more information about the nature of the I-90 fee at issue, we cannot ascertain whether the fee, or any part of it, met the requirements of table 2-24, item 10. Therefore, we return the claim to the agency to determine whether the I-90 fee was required for official travel, and if it was, whether it met any of the requirements under table 2-24, item 10 that would authorize reimbursement.

Decision

Claimant's request is returned to the agency for further examination consistent with this opinion.

Kathleen J. O'Rourke
KATHLEEN J. O'ROURKE
Board Judge