



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 7, 2021

CBCA 7193-RELO

In the Matter of JOE T.

Joe T., Claimant.

Melissa K. Vaughn, Financial Management Supervisor, Air Force Installation Support Center, Air Force Materiel Command, Department of the Air Force, Ellsworth Air Force Base, SD, appearing for Department of the Air Force.

SULLIVAN, Board Judge.

Claimant was hired by the Department of the Air Force (USAF) as a technician and received orders to report to his new permanent duty station (PDS) in Arizona. Claimant seeks review of the denial by the USAF of his request for an additional thirty days of temporary quarters subsistence expense (TQSE) allowance following his arrival in Arizona. Because statute and regulation do not authorize TQSE reimbursement for new appointees, we deny the claim.

Background

Claimant's travel orders stated that claimant would not receive TQSE. Despite this fact, claimant believed that he would receive TQSE based upon communications with several agency contacts, including his approving officer (AO). He was not told that he would be reimbursed for his lodging costs; instead, he was instructed to review the Joint Travel Regulations (JTR). Claimant understood that new appointees are ineligible for TQSE authorization but thought that he was not a new appointee because he had previously served on active duty in the Air Force. Claimant accrued lodging costs of \$8901, for which he seeks reimbursement.

Discussion

Because claimant is a new appointee, rather than an employee being relocated in the interests of the Government, he is not entitled to TQSE. Agencies are only authorized to pay travel and transportation expenses for new appointees. 5 U.S.C. § 5723 (2018). Agencies may only pay TQSE to employees transferred or re-employed after a period of one year. *Id.* § 5724a. Under Federal Travel Regulation (FTR) 302-3.2 (41 CFR 302-3.2 (2020)), an agency may provide to a new appointee only those relocation expenses expressly listed within the section, and an “agency will not pay for expenses that are not listed.” 41 CFR 302-3.3. TQSE is “specifically not allowable” because it is not expressly listed as a recoverable expense in FTR 302-3.2. *Richard K. Guffey*, CBCA 5983-RELO, 18-1 BCA ¶ 37,021 (quoting *Wendy Castineira*, GSBCA 15092-RELO, 00-1 BCA ¶ 30,740 (1999)). Similarly, as the JTR states, TQSE is “not authorized for. . . [a] new appointee assigned to a first PDS.” JTR 054202, tbl. 5-83 (May 2020). Claimant’s travel orders stated he was to relocate from his actual residence, rather than an official duty station, to his new PDS and correctly indicated he was ineligible for TQSE.

Claimant is a new appointee, “notwithstanding his previous military service.” *Peter A. Kosloski*, CBCA 2991-RELO, 12-2 BCA ¶ 35,169. A new appointee is “[a]n individual who is employed with the Federal Government for the very first time” or “[a]n employee who is returning to the Government after a break in service.” 41 CFR 302-3.1. Claimant’s new position as a military reserve technician classifies him as a federal civilian employee. 10 U.S.C. §§ 10216, 10217. Civil service excludes positions in the uniformed services. 5 U.S.C. § 2101(1). Uniformed military service is defined separately and governed by an entirely different statutory scheme. 37 U.S.C. §§ 101(3), 474.

The FTR provides an exception to the classification as a new appointee for employees who departed federal service but are re-employed within one year. 41 CFR 302-3.1. However, this exception is limited to employees who depart federal service due to a reduction in force or a transfer of the employee’s job functions. *Id.* The JTR provides an identical definition and limited exception. JTR 054801-B. There is no indication in the record that this exception applies to claimant.

Decision

The claim is denied.

Marian E. Sullivan
MARIAN E. SULLIVAN
Board Judge