



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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April 22, 2022

CBCA 7291-RELO

In the Matter of CHRISTOPHER H.

Christopher H., Claimant.

Candy L. Nimey, Financial Analyst, Travel Mission Area, Enterprise Solutions and Standards, Defense Finance and Accounting Service, Rome, NY, appearing for Department of Defense.

**BEARDSLEY**, Board Judge (Chair).

Claimant, Christopher H., is a new civilian employee of the Department of the Army (agency). Claimant asked this Board to review the agency's refusal to reimburse him for \$12,461 in per diem incurred by his dependents during a permanent change of station (PCS) move to his first duty station. The agency correctly denied reimbursement because the Federal Travel Regulation (FTR) and the Joint Travel Regulations (JTR), both of which apply here, do not authorize reimbursement for per diem for dependents traveling to a civilian employee's first duty station.

Background

Claimant received his PCS orders on November 9, 2020, for his first duty station, requiring claimant to travel from Colorado Springs, Colorado, to Kwajalein Atoll in the Republic of the Marshall Islands. Claimant's orders authorized per diem for his dependents. Claimant and his family were required to quarantine in Honolulu, Hawaii, for three weeks before continuing on to Kwajalein Atoll as a result of the COVID-19 pandemic. While in Hawaii quarantine, claimant's family of five had to occupy two rooms because the Hawaii hotels had a maximum capacity of four people per hotel room. Claimant was advised by the agency that he was entitled to per diem for his dependents, including the second hotel room,

for the time that they were quarantined. The agency, however, denied reimbursement in the amount of \$12,461 for per diem expenses incurred by claimant's dependents from December 6 to December 29, 2020, because claimant was a new government employee, and he and his dependents were traveling to his first duty station.

### Discussion

Pursuant to the FTR, per diem (a daily payment for lodging, meals, and related incidental expenses) is not authorized for a new appointee's immediate family members. 41 CFR 302-4.202(a) (2020) (FTR 302-4.202(a)). The JTR also states that per diem is not authorized for dependents traveling to a civilian employee's first duty station. JTR 054801-D, tbl. 5-98 (Dec. 2020) (Allowances for Travel to the First Duty Station); *Eloisa D.*, CBCA 7190-RELO, 21-1 BCA ¶ 37,950. To the extent that claimant is asking for temporary quarters subsistence expenses (TQSE), as suggested in claimant's response to the agency, TQSE is also not authorized for dependents traveling to a civilian employee's first duty station. *Id.*

Even though the agency told claimant that it would reimburse him for his dependents' per diem in Hawaii and his travel orders authorized that per diem, such incorrect advice and erroneous travel orders provide "no basis for us to grant relief to a claimant. Only expenses that are authorized by statute and regulations may be reimbursed." *Eloisa D.* (citing *Paul A. Monderer*, CBCA 6355-TRAV, 19-1 BCA ¶ 37,300 (quoting *Eugene Andruchowicz*, CBCA 3022-RELO, 13 BCA ¶ 35,200 (2012))). The agency "is not bound by the erroneous advice of its officials, even when the employee has relied on this advice to his detriment." *Jason N. Fischell*, CBCA 6706-RELO, 20-1 BCA ¶ 37,591 (citing *Daryl J. Steffan*, CBCA 3821-TRAV, 14-1 BCA ¶ 35,734 (quoting *Flordeliza Velasco-Walden*, CBCA 740-RELO, 07-2 BCA ¶ 33,634)). Moreover, "travel orders which erroneously authorize relocation expenses to which a new employee is not entitled cannot create a right to reimbursement in excess of the statutory and regulatory entitlements." *Richard G. Bebout*, CBCA 987-RELO, 08-1 BCA ¶ 33,814 (citing *Kevin R. Kimiak*, GSBCA 16641-RELO, 05-2 BCA ¶ 33,007; *Wendy Castineira*, GSBCA 15092-RELO, 00-1 BCA ¶ 30,740 (1999); *William Archilla*, GSBCA 13878-RELO, 97-1 BCA ¶ 28,799). "This is true regardless of whether the employee relied to his or her detriment on the erroneous orders." *Id.* (citing *Marlene Lewis*, GSBCA 15431 -RELO, 01-2 BCA ¶ 31,642; *Kimiak*; *Castineira*; *Archilla*).

### Decision

The claim is denied.

Erica S. Beardsley  
ERICA S. BEARDSLEY  
Board Judge