



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 7, 2022

CBCA 7243-TRAV

In the Matter of RAFAEL S.

Rafael S., Claimant.

Megan E. Parker, Office of Assistant Chief Counsel, Customs and Border Protection, Department of Homeland Security, Indianapolis, IN, appearing for Department of Homeland Security.

LESTER, Board Judge.

Claimant challenges a demand that he repay \$349.56 of the \$512 that he was originally reimbursed for airport parking expenses that he incurred while on temporary duty (TDY) travel. The agency asserts that the original payment conflicts with the requirements of the Federal Travel Regulation (FTR) because the parking expenses exceed the cost that claimant would have paid for round-trip travel from his residence to the airport and back had he taken a taxi or a ride with a transportation network company (TNC) like Uber or Lyft. The official who approved the \$512 payment lacked authority to override the limitations imposed by the FTR. Accordingly, the reimbursable amount of claimant's parking fee is limited to the constructive cost of round-trip travel between claimant's residence and the airport by taxi or TNC. Nevertheless, because claimant has submitted evidence that the round-trip cost by TNC would have been higher than what the agency's cost reconstruction indicates, we reduce claimant's repayment obligation.

Background

Claimant was authorized to travel on TDY from his permanent duty station (PDS) in or near Alpine, California, to attend a training course with the United States Border Patrol in Los Indios, Texas. His travel authorization permitted him to depart his PDS on July 12,

2021, and to return on July 28, 2021. In a “welcome letter” to training participants that claimant received when he was accepted into the course, claimant was notified that employees traveling to the training program site by air could “claim a round trip cab fare or parking” at the airport but not both. Employees electing to park at the airport, the letter indicated, would be “reimburse[d] UP TO \$12 per day for airport parking,” plus mileage to and from the airport and that “[l]ong term parking solutions should be utilized whenever possible.”

Claimant was scheduled to fly out of the San Diego International Airport to travel to the training course in Texas. Claimant elected to drive from his residence in Alpine to the airport, a distance of a little more than thirty miles. When he arrived at the airport, he discovered that the cheapest available parking that he could locate charged \$32 a day. By then, it was too late for him to return to his PDS and return by taxi or shuttle bus in time to make his flight. Accordingly, he parked his car in the \$32-per-day lot and flew to the training program in Texas. Ultimately, the total charge for parking his car at the airport for the sixteen-day period during which he attended the training course was \$512.

At some point after he arrived at the training course, he told a director of the training academy, who was the authorizing official for travel for the course, of his parking dilemma and the fact that, even though his travel authorization only allowed up to \$12 a day for parking, he had been required to park in a lot that charged \$32 a day. The director told claimant that, given the circumstances and in this one instance, he would approve the parking charges.

Claimant submitted his travel voucher for the trip, inclusive of the \$512 parking charge, on July 29, 2021. By email dated August 23, 2021, a mission support specialist for the Border Patrol notified claimant that he would need to correct his voucher before it could be processed. She explained that “[i]t appears you left your vehicle at San Diego International Airport and you are claiming \$512.00” – \$32 a day for sixteen days – “for parking which was not authorized.” She informed claimant that, “according to your initial travel authorization, you submitted and were approved for [\$]12.00 a day for parking. Anything beyond that is your responsibility.”

In a responsive email, claimant explained that he had not known that airport parking in San Diego was as expensive as it was and that, having arrived at the airport and needing to travel immediately, he had to make the best decision that he could in the circumstances, which was to park his car in the airport parking lot. The director of the training academy subsequently confirmed in writing that he had verbally approved the \$512 parking expense. Claimant’s voucher was then processed with the \$512 parking charge included, and claimant received payment for his travel.

Subsequently, however, the agency's National Finance Center (NFC) tagged the voucher because of the FTR exceptions in it and determined that the director of the training academy did not have authority to approve the \$512 parking charge. In an email dated October 26, 2021, an NFC program coordinator informed claimant that, in accordance with the FTR, the cost of parking at an airport as part of TDY travel cannot exceed the round-trip cost to and from the airport of a taxi or TNC. The NFC coordinator attempted to reconstruct what the round-trip cost from claimant's residence to the San Diego airport would have been on the dates of claimant's travel by using cost estimating features on ride-share company websites. Using the Lyft site, which identified a range of one-way fares from a low of \$43.40 to a high of \$70.63, the NFC coordinator took "the price at high traffic for the transportation and giving the maximum tip allowed (15%) . . . calculate[d] the cost of using this type of transportation to be \$162.44 $((70.63 \times 2) \times 1.15)$." He indicated that "FTR policy is that your reimbursement for airport parking NOT exceed the cost of taking public transportation which leaves \$349.56 paid to you that should not have been." He acknowledged that claimant's "voucher does have a[n accompanying] document waiving the \$12 limitation set by the Academy, but they are not able to waive the FTR regulation." The email provided claimant instructions on how to return the \$349.56 owed and notified claimant that "[p]ayment is due by November 30 or collection actions will begin."

On November 2, 2021, claimant submitted his challenge to the repayment demand to the Board.

Discussion

Under the FTR, a traveler authorized TDY travel can incur reimbursable expenses to get from his or her residence or PDS to an airport from which the traveler will fly to his or her authorized destination and to travel back to his or her residence or official station after the return flight. 41 CFR 301-10.420 (2020) (FTR 301-10.420). The dispute in this case involves the extent to which a traveler who chooses to travel to the departure airport in a privately owned vehicle (POV) and park at the airport, instead of taking a taxi or TNC, is entitled to reimbursement of his or her parking costs.

FTR 301-10.308 provides that, if the traveler elects to drive a POV from his or her residence to the departure airport, parking fees incurred to park the traveler's vehicle at the departure airport cannot exceed the round-trip cost between the traveler's residence or PDS and the airport by a taxi, TNC, or innovative mobility technology company:

§ 301-10.308 What will I be reimbursed if I park my POV at a common carrier terminal while I am away from my official station?

Your agency may reimburse your parking fee as an allowable transportation expense not to exceed the cost of one of the following to/from the terminal as determined by your agency:

- (a) The cost of a taxi.
- (b) The cost of a TNC fare.
- (c) The cost of using an innovative mobility technology company.

41 CFR 301-10.308.

Here, it is clear that, had claimant taken a taxi or TNC between his residence and the San Diego airport, the cost would have been less than what he actually incurred in parking expenses. The Board previously recognized in *Michael A. Lopez*, CBCA 6170-TRAV, 18-1 BCA ¶ 37,108, that, to the extent that parking fees at the departure airport exceed what the round-trip costs of a taxi or commercial ride-share service to and from the departure airport would have been, the employee, not the Government, is responsible for the excess costs. The FTR does not permit a deciding official to create exceptions that would allow for reimbursement simply because an employee had failed to investigate in advance whether it would be more cost effective to take a taxi or TNC than to drive to and park at the airport. *Daniel McLoughlin*, CBCA 1924-TRAV, 10-1 BCA ¶ 34,426; *see Johnnie P. Saunders, Jr.*, GSBCA 16791-TRAV, 06-1 BCA ¶ 33,223 (“There is no authority to grant a larger reimbursement” than a round-trip taxicab fare between the employee’s residence and the departure airport).

Although claimant has argued that full reimbursement is appropriate because of the benefit of his travel to the agency’s mission, claimant is ultimately responsible for his failure to conduct, before he began his travel, any kind of evaluation of the costs that he would have to incur to park at the airport. He had to “exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.” 41 CFR 301-2.3. A prudent person would have investigated airport parking costs before commencing travel. Ultimately, the agency is entitled to recoup from claimant any overpayment on claimant’s airport parking expenses that claimant fails to show were appropriate.

That being said, claimant, relying on calculations from the same Lyft cost estimating website upon which the agency relied, has presented evidence to the Board that the cost of a one-way trip from Alpine, California, to the San Diego airport during the time period in question could have been as high as \$116.68 (or \$233.36 for a round trip). It is ultimately the claimant’s burden to establish his right to payment, *Christopher R. Chin-Young*, CBCA 3734-RELO, 14-1 BCA ¶ 35,688, as well as the correct amount to be paid. *Benjamin A. Knott*, CBCA 4579-RELO, 15-1 BCA ¶ 36,019. We credit claimant’s evidence of the costs of travel between Alpine, California, and the San Diego airport by TNC. The agency states

that, if the Board finds that it should account for claimant's asserted "'real time' scenario" cost of using Lyft based on his September 2021 documentation, "the maximum roundtrip cost of using Lyft (accounting for a maximum 15% tip) would have been \$268.36 (\$116.68 x 2 x 1.15)." Based upon that recalculation, we deduct \$268.36 from the \$512 that the agency originally paid claimant for parking, leaving \$243.64 that claimant must repay to the agency.

Decision

For the foregoing reasons, claimant's claim is granted in part. The agency is entitled to recoup \$243.64 from claimant, rather than the \$349.56 originally at issue in this matter.

Harold D. Lester, Jr.

HAROLD D. LESTER, JR.

Board Judge