

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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October 30, 2001

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GSBCA 15659-TRAV

In the Matter of TRACY JONES

Tracy Jones, Eagle River, AK, Claimant.

Deborah Osipchak, Manager, Travel and Payroll Services Branch, Federal Aviation Administration, Department of Transportation, Washington, DC, appearing for Department of Transportation.

NEILL, Board Judge.

Mr. Tracy Jones is an employee of the Federal Aviation Administration (FAA). In May of this year, he traveled from his home in Erwin, Tennessee, to Anchorage, Alaska, to determine whether he wanted to accept a position there. A controversy has since arisen over whether he should be reimbursed for travel expenses incurred during this trip. FAA's Alaska region rejected the claim and subsequently referred a request for reconsideration to FAA's offices in Washington, D.C., for review. The agency has referred the case to us with the request that we determine whether the claim should be granted. Based upon the facts provided by the agency, we conclude that the claim should be paid.

## Background

Mr. Jones was hired by FAA on April 1, 2001. At the time, he resided in Erwin, Tennessee. It is unclear from the record precisely when Mr. Jones indicated an interest in accepting a position in FAA's Alaska region. What we do know, however, is that the FAA official in Alaska who dealt with Mr. Jones' inquiry was not prepared to assign Mr. Jones to the post in question without taking some preliminary steps to ensure that the applicant was fully aware of the specific demands of the position.

The regional official first made clear to both Mr. Jones and his supervisor that no permanent change of station (PCS) benefits would be associated with the assignment in question. On the other hand, before Mr. Jones should expend his personal funds to relocate, the regional official wanted to be certain that Mr. Jones was fully aware of the unique conditions of the assignment. The official has explained in a memorandum contained in the agency report furnished to the Board that the unit for which Mr. Jones was being considered is one of the most unique and hard-to-staff in Alaska. Technicians assigned to it must not

only face the normal remote Alaska conditions but also spend up to eighty percent of their time in travel status on the Aleutian Chain in severe arctic weather conditions.

The regional official was of the opinion that it would be in the best interest of both the employee and the agency if Mr. Jones, before making a final decision, were to make a familiarization visit to what might become his permanent duty station (PDS). The visit would permit Mr. Jones to have frank conversations with unit personnel regarding the physical and mental hardships associated with the post in which he had shown interest. The regional official, therefore, authorized Mr. Jones to travel from Erwin, Tennessee, to Anchorage, Alaska, for a temporary duty (TDY) assignment.

Mr. Jones' TDY travel was initially authorized for May 6 through 11. This authorization was later amended to change the period of travel to May 12 through 18. The purpose of the travel in both the original and amended authorization is the same, namely: "FOR A FAMILIARIZATION VISIT."

Upon return from his trip to Alaska, Mr. Jones submitted a travel voucher requesting reimbursement for \$1412.97 in travel expenses. In the remarks section of the voucher was the statement: "this was a househunting trip." Those responsible for processing the voucher recognized at once that it could not be paid as presented. They were aware that a househunting trip was a PCS benefit but that no PCS benefits had been authorized for Mr. Jones' assignment to Alaska. Mr. Jones' immediate supervisor, who had approved the voucher, was notified that the voucher could not be paid without a PCS authorization. To resolve this problem, the supervisor deleted from the voucher any reference to househunting and changed it to state that the trip was a "familiarization visit" -- as the original and amended travel authorizations had provided. He then resubmitted the voucher.

The voucher, as amended, was still considered questionable by those responsible for processing it. They questioned the agency's authority to provide for such a visit outside of an officially authorized PCS. They also concluded, after a review of two Standard Forms 50 in the claimant's personnel file, that he was in effect claiming TDY expenses while working at his PDS.

In a renewed effort to resolve matters, Mr. Jones reduced his claim to \$1351.22. Among the items removed from the original claim are the costs of local telephone calls he made while in Anchorage which are said to have been related to real estate. Shortly thereafter, the regional official, who originally authorized Mr. Jones' visit to Anchorage, by formal memorandum asked those responsible for processing the voucher to reconsider their original denial and to pay the claim, as revised. In this request, the official provided a detailed explanation of why she had required Mr. Jones to make a site visit to Anchorage before a decision was made on his assignment to the Alaskan region. The memorandum stressed the fact that the purpose of the visit was not to permit Mr. Jones to engage in househunting but rather to ensure that the applicant understood the unique demands of the position he was considering. The local officials responsible for processing this request for reconsideration took no action on it other than to forward it to FAA officials in Washington, D.C. The manager of FAA's travel and payroll services branch in Washington has since referred the case to us with the request that we determine whether the claim should be granted.

### Discussion

One item on which all parties agree in this case is that Mr. Jones was not entitled to a househunting trip to Alaska prior to permanent assignment there. It is to the credit of those responsible for processing his voucher that they promptly recognized that a househunting trip was a PCS benefit to which the claimant was not entitled. Reference to househunting on the initial voucher submission was indeed unfortunate. It is, however, equally unfortunate that, when the voucher was amended to refer instead to a familiarization visit, this was looked upon as a superficial correction at best.

The original and amended travel authorizations as well as the written account provided by the regional official who called for the visit satisfy us that the primary purpose of Mr. Jones' visit to Anchorage was to familiarize him with the precise nature of the post in which he had expressed interest. It does not surprise us that, while in Anchorage, Mr. Jones also made some inquiries as to possible housing. Nevertheless, given the circumstances which gave rise to his visit, these inquiries did nothing to change the principal purpose of his coming to Alaska in the first place.

Another matter of concern for those responsible for processing Mr. Jones' claim is that, after a review of his personnel action forms (Standard Forms 50), they concluded that Mr. Jones was claiming TDY benefits while working at his PDS. The record does not include these forms. We are told, however, that there are two in Mr. Jones' personnel file. The first is said to show that he was hired effective April 1, 2001, but that he was to be on leave without pay not to exceed June 2. The second form is said to state that Mr. Jones returned to duty on May 13, 2001.

We fail to see how one can conclude from these entries on the two Standard Forms 50 that Mr. Jones was at his permanent or official duty station while in Anchorage for a familiarization visit. The very purpose of this visit was to determine with some degree of certainty whether he was fit and/or willing to be stationed permanently at the post under consideration. It makes little sense to conclude that, while he was on TDY for this purpose, he was already officially stationed there.

It is well settled that the papers processed by an agency and an agency's statements are not necessarily conclusive proof of the location of an employee's official duty station. The General Accounting Office (GAO), which formerly resolved the travel claims of Government employees, traditionally held that whether an assignment to a particular location should be considered a temporary duty assignment or a permanent change of station is a question of fact. In determining this fact, GAO was less interested in the paper trail created by the agency and the employee and more interested in the facts establishing where the employee was expected to spend the greater part of his or her time performing official duties. E.g., Bertram C. Drouin, 64 Comp. Gen. 205 (1985); Frederick C. Welch, 62 Comp. Gen. 80 (1982). Upon assuming from GAO the responsibility of resolving travel claims of Government employees, this Board made clear that, in dealing with the question of whether an employee should be considered to be on TDY or at his or her PDS, it would use the same approach as previously used by GAO. John P. DeLeo, GSBCA 14042-TRAV, 97-2 BCA ¶ 29,156. Subsequent decisions confirm that we have consistently followed this approach. E.g., Kenneth E. Billings, GSBCA 15264-TRAV, 00-2 BCA ¶ 30,961; William E. Day,

GSBCA 14640-RELO, 99-2 BCA ¶ 30,421; Gerard R. Sladek, GSBCA 14145-TRAV, 98-1 BCA ¶ 29,403 (1997).

Based upon the record before us in this case, we find that, although the claimant may have been on leave without pay from April 1, the effective date of his being hired, he obviously went on active duty as of May 12, the day he left his home in Erwin, Tennessee, to make a site visit to Anchorage and remained on active duty until his return on May 18.

We further find that, as a matter of fact, Mr. Jones' assignment during this site visit was a TDY assignment and not a permanent change of station. As an employee of FAA, Mr. Jones is subject to the Federal Aviation Administration Travel Policy (FAATP) and not the Federal Travel Regulation (FTR).<sup>1</sup> Under the FAATP, an employee's "official station" is defined as the corporate limits of the "city or town" or the established area having definite boundaries within which the employee is "stationed." FAATP 301-1.4. Admittedly, it is not clear from the record where the claimant's official station was at the time he was authorized to travel to Alaska. It may be that, as a newly hired employee on leave without pay, he did not yet have an official station or that his home was to be considered his official station – as in the case of invitational travelers. Id. What we do know with certainty, however, and what is of critical importance in deciding this case, is that, for the duration of claimant's authorized familiarization visit to Anchorage, that site was *not* his official station. Rather, the purpose of the visit was to determine whether it would be feasible that the visited site become his official station.

Under the FAATP, "temporary duty (TDY) location" is defined as "a place away from an employee's official station, where the employee is authorized to travel." FAATP 300-3.30. If the facts in this case support the conclusion that, during his site visit to Anchorage, Mr. Jones was not at his official station (and we have concluded that they most certainly do support that conclusion), then, under the applicable regulation, his assignment to Anchorage was a TDY assignment. His amended claim for reimbursement of authorized expenses should, therefore, be paid.

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EDWIN B. NEILL  
Board Judge

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<sup>1</sup> Section 347 of The Department of Transportation and Related Agencies Appropriations Act of 1996, grants FAA the authority to develop a personnel system with new personnel policies, including travel policies, and exempts it from certain provisions of Title 5 of the United States Code, and implementing Government-wide regulations, including the FTR. Pub. L. No. 104-50, § 347, 109 Stat. 436, 460 (1995); FAATP 300-1.2.