

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

March 28, 2003

GSBCA 15855-TRAV

In the Matter of LEO BOSNER

Leo Bosner, Washington, DC, Claimant.

A. C. Mendoza, Disbursing Officer, Department of the Navy, Okinawa, Japan, appearing for Department of the Navy.

WILLIAMS, Board Judge.

If an employee purchases an airline ticket from an unauthorized travel agent, the employee is responsible for any additional costs over and above the reimbursement he would have been entitled to had the ticket been purchased pursuant to regulation.

An employee who delays his return from a temporary duty (TDY) assignment to visit friends may not be reimbursed for lodging the night before his return at a hotel near the airport because he was not in official TDY status on the evening he incurred the lodging expense, and the delay in his return was for personal convenience.

Background

Claimant, an employee with the Federal Emergency Management Agency in Washington, D.C., was invited to participate in a conference to be held in Okinawa, Japan. Claimant was invited by the Navy, and the invitation specified that the Navy would cover his travel, lodging, and per diem costs to and from Okinawa. Claimant was advised by the Navy representative that the Navy travel office would not be able to purchase his airline tickets for him, but that he should purchase his own tickets and claim reimbursement later. On January 16, 2002, claimant purchased his tickets.

Claimant participated in the conference and left on the final day, Thursday, January 24, at about 3:30 p.m. He proceeded immediately to the Okinawa airport to fly to Tokyo. He flew out of Okinawa on the first available flight at 5:40 p.m., arriving in Tokyo at 8:00 p.m. Since the last flight back to Washington had left an hour earlier, it was too late for claimant to continue his return home. Therefore, claimant stayed in Tokyo with friends

on Thursday and Friday nights and used annual leave on Friday. He then stayed in an airport hotel near the airport in Tokyo on Saturday, January 26, and flew home to Washington on Sunday morning, January 27. Claimant's travel orders identified January 27 as his estimated date of return.

Given security regulations, the one- to two-hour travel time from Tokyo to the airport and the two-hour-plus time required to clear airport security, claimant thought it would be prudent to stay overnight at the airport hotel so that he could arrive at the airport in time to make his 11:00 a.m. flight back to the United States. Before leaving the conference, claimant had advised a Navy travel official of his plans, and she directed him to fax the hotel receipt when he returned so he could be reimbursed. The cost of the hotel was \$68.58 in United States dollars.

The Navy reduced the amount of claimant's reimbursement for his airline tickets by \$35.10 to reflect the amount that it would have cost the Government had claimant purchased his tickets through the Navy travel office. In addition, the Navy refused to reimburse claimant for the hotel at the Tokyo airport on the ground that he could not be authorized a hotel "unless there was no flight availability," and he could not be paid for a lodging cost on a day classified as leave.

Discussion

As the Board has consistently noted, the Federal Travel Regulation (FTR), which also applies to civilian Department of Defense employees, provides the guidance that we need to resolve a claim such as that brought here. Anna Maria Abrigo, GSBCA 15675-TRAV, 02-2 BCA ¶ 31,921; D. Gregory Arnold, GSBCA 15692-TRAV, 02-1 BCA ¶ 31,772; Richard C. Mutzman, GSBCA 15333-TRAV, 01-2 BCA ¶ 31,538. The FTR does not make an employee liable for the entire cost of an airline ticket if he or she purchases the ticket from an unauthorized travel agency or travel management center. Instead, the FTR limits the employee's liability to "any additional costs" that result. 41 CFR 301-50.2 (2001). The employee, therefore, is entitled to reimbursement but not beyond what would have been paid had the ticket been purchased pursuant to regulation. Vivian E. Nichols, GSBCA 15493-TRAV, 01-1 BCA ¶ 31,366; Doris N. Lee, GSBCA 15451-TRAV, 01-1 BCA ¶ 31,279. Because there was an additional cost of \$35.10 associated with the ticket purchased by Mr. Bosner, the agency correctly denied reimbursement of that amount.

With respect to the hotel charge, in order to recover claimant would have to demonstrate that the cost of the hotel room rental was a necessary element of his travel. Wendy S. Poffenberger, GSBCA 15738-RELO, 02-2 BCA ¶ 32,036. In the instant case, because claimant had missed the last flight out of Tokyo on Thursday night, he would have been eligible to be reimbursed for the cost of the hotel room that night so that he could fly out the following morning. However, the fact that he interrupted his official travel to take annual leave and visit friends changes this result.

The Joint Travel Regulation C1058.3 expressly provides that "excess costs, circuitous routes, delays, or luxury accommodations that are unnecessary or unjustified are the traveler's financial responsibility." (Emphasis added.) In addressing a similar situation in Robin M. Kime, B-257927 (May 17, 1995), the Comptroller General ruled that an employee who delayed her return TDY travel and took annual leave was not entitled to reimbursement of lodging near an airport when she took an early morning flight on the day on which she was

on leave. The Comptroller General reasoned that even though the employee was given permission to delay her return, she was not in an official TDY status on the date of her return and there was no basis under the regulation to pay her per diem for a day on which was on annual leave.

Here, as in Kime, the employee's decision to delay his return was strictly for personal convenience, and there is no legal basis to permit reimbursement.

Decision

The claim is denied.

MARY ELLEN COSTER WILLIAMS
Board Judge