

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

November 14, 2002

GSBCA 15937-TRAV

In the Matter of CHARLES E. MALONE

Charles E. Malone, Huntsville, AL, Claimant.

Vickie S. Irby, Budget Analyst, United States Army Research, Development, Acquisition, and Sustainment Information Activity, Radford, VA, appearing for Department of the Army.

NEILL, Board Judge.

Charles E. Malone, a civilian employee of the United States Army, asks that we review a refusal of the Army's Research, Development, Acquisition, and Sustainment Information Activity (RDASIA) to reimburse him for the cost of his renting a car while attending a training course organized by that activity. He also contends that, in defraying the cost of the rental car, he is entitled to a credit for travel funds saved by his proceeding to his temporary duty (TDY) site via an indirect and cheaper route and for per diem funds saved by his staying at the hotel training site. For the reasons set out below, we affirm RDASIA's determinations.

Background

RDASIA manages Army student quotas and travel funding for acquisition training mandated by the Defense Acquisition Workforce Improvement Act of 1990, Pub. L. No. 101-510, 104 Stat. 1638 (1990). Travel funding for students is provided to RDASIA by the Defense Acquisition University (DAU).

In early May 2002, RDASIA issued orders to Mr. Malone, an acquisition worker assigned to the Aviation and Missile Command in Huntsville, Alabama. The orders authorized Mr. Malone to travel to Virginia Beach, Virginia, to attend a four-day training course in construction contracting starting May 20. In addition to per diem for the duration of this TDY assignment, the orders also authorized travel by air from Huntsville to Virginia Beach and provided for reimbursement of commercial airfare not to exceed the cost of transportation available through the commercial travel office (CTO) designated by his agency.

Mr. Malone's orders did not authorize use of a rental car. In its report to us on this case, RDASIA has advised us that, as a general rule, the DAU does not fund rental cars for students. Most classes are conducted at military installations that provide post transportation. When training is provided off-post, RDASIA uses hotels which have their own dining facilities and provide, if necessary, courtesy-van transportation to and from classes. Information available to prospective students at RDASIA's web site confirms the DAU policy regarding funding of rental cars for students.

On May 8, after receiving his orders for training in Virginia, Mr. Malone advised RDASIA by e-mail that he did not have reservations at the hotel where his training was scheduled to be given. He asked that he be authorized use of a rental car because taxi service each day for meals and to and from the hotel where the training was offered would amount to more than the daily charge for a rental car. A reply the same day from RDASIA explained to Mr. Malone that his orders did not include authorization for a rental car, that space should be available for him at the hotel where the training was offered, and that taxi or limousine service was authorized for transportation to and from the airport.

The following week, Mr. Malone again contacted RDASIA by e-mail requesting that he be authorized a rental car. Referring to his previous message, he stated that he was unable to get a reservation at the hotel where his training course was to be offered. On the same day, two e-mail replies were sent to Mr. Malone by RDASIA. The first, from a budget analyst at RDASIA, explained that rental cars were not authorized for classes being given in the area where Mr. Malone would be on TDY. The analyst also suggested, as an alternative, that Mr. Malone ask his own command to finance his use of a rental car. She explained that RDASIA only authorized rental cars in this area of Virginia for students who are in government billeting located at some distance from the training site. The second message from RDASIA assured Mr. Malone that a call had been made to the hotel where his training was to be given and that the hotel had confirmed space was still available for students. The message provided the hotel telephone number and urged Mr. Malone to call for a reservation.

On contacting the agency's CTO before departure, Mr. Malone determined that the airfare from Huntsville to Virginia Beach for a Government employee would be \$341.50. Because his personal plans called for him to be visiting in St. Louis on the weekend he was scheduled to travel to Virginia Beach, Mr. Malone arranged to fly to Virginia Beach from Saint Louis rather than from Huntsville. The cost of this flight was \$282.

Notwithstanding the instructions provided by RDASIA personnel, Mr. Malone rented a car on arrival in Virginia and registered at a hotel in Virginia Beach other than that where his training course was to be given. On the first day of his course, however, after discovering that there still were rooms available at the training site, he transferred to that hotel. Nevertheless, he retained the rental car. He explains that he considered this to be less expensive than "taxi service for at least 1 or 2 times a day, to and from the hotel for meals and other incidentals. All of which, according to the Joint Travel Regulation[s] (JTR)[,] are legitimate cost[s]."

At the conclusion of his training, Mr. Malone submitted his travel voucher to the Defense Finance and Accounting Service (DFAS) for payment. On this voucher he included a claim for reimbursement of \$245.15 for a rental car. This portion of his claim was denied. Mr. Malone takes issue with the denial of this item. He also is of the opinion that government funds saved by reason of his choosing an alternate and cheaper route to his TDY location and his transferring from the hotel where he originally registered to the hotel which served as the training site for his course should be credited against any travel expenses for which DFAS and/or RDASIA conclude he cannot be reimbursed.

Discussion

The Federal Travel Regulation (FTR), to which the claimant is subject as a civilian employee of the Federal Government, has the following provision regarding rental cars:

When can I use a rental vehicle?

Your agency must determine that use of a rental vehicle is advantageous to the Government and must specifically authorize such use.

41 CFR 301-10.450 (2001) (FTR 301-10.450). The JTR, which implement and supplement the FTR for civilian employees of the Department of Defense (DoD), further provide with regard to rental vehicles:

Hiring and using a special conveyance is authorized/approved by the order-issuing official only when it is determined the use of other means of transportation is not advantageous to the Government. Personal preference or minor inconvenience shall not be the basis for authorizing/approving the use of a special conveyance instead of a cheaper mode of transportation.

JTR C2102-A. In providing for an employee's travel at a TDY location, the JTR expressly note that reimbursement for transportation expenses in the TDY area may be authorized/approved for travel between lodging or duty site and dining facilities provided that suitable dining establishments are not near the lodging and/or place of duty. JTR C2402-A.3, -B.2.

Mr. Malone's claim for the cost of a rental car fails for the fundamental reason that a car was never approved or authorized for him. Further, no determination was ever made that its use would be advantageous to the Government or that use of any other means of transportation would not be advantageous to the Government. See Charles M. Ferguson, GSBCA 14568-TRAV, 99-1 BCA ¶ 30,299, reconsideration denied, 00-1 BCA ¶ 30,616. From the record before us, it is clear that before Mr. Malone left his permanent duty station for training, he was expressly advised by RDASIA that it was not the practice of DAU to fund the use of a rental car for students lodging in commercial facilities at or near the training site. As for the suggestion that he see if his own command would be willing to fund such an authorization, Mr. Malone apparently chose not to pursue that possibility.

The claimant writes: "The school is basically holding students hostage by not allowing renter [sic] cars for official TDY business in accordance with the JTR allocable and allowable cost criteria." Mr. Malone also is of the opinion that taxi service at least once or twice a day, to and from the hotel training site, for meals and other incidentals is a matter of right under the JTR. We disagree.

As already noted, by regulation, the hiring and use of a rental car must be authorized or approved by the order-issuing official. As we have previously noted, this is as it should be. The authorizing official is in the best position to evaluate the needs of the office and the options available to an employee and to decide for any given trip whether the use of a rental car is prudent and advantageous to the Government. Brian T. Walsh, GSBCA 15703-TRAV, 02-1 BCA ¶ 31,818. As the organizational component within DoD responsible for administering acquisition training mandated by the Defense Acquisition Workforce Improvement Act, RDASIA is obviously well qualified to determine whether a rental car should be authorized for a DoD employee planning to attend one of its courses.

RDASIA's refusal in this case to authorize a rental car for Mr. Malone was certainly reasonable and in compliance with applicable regulations. We are told that the hotel used as the training site for the claimant's course did have its own dining facilities which served breakfast, lunch, and dinner, and that a block of rooms, at a reduced rate, had been reserved for those attending the course. It would hardly have been advantageous for the Government to authorize rental cars for the course participants under these circumstances.

Mr. Malone also contends that, in seeking reimbursement for the cost of a rental car, he should be credited for money saved for the Government by his not flying directly to his TDY site from Huntsville and by transferring from a nearby hotel to the hotel which served as the training site. While we are prepared to recognize that Mr. Malone may have saved some money for the Government by not flying directly to his TDY location, we agree with the agency that there were no tangible savings associated with Mr. Malone's hotel transfer. All of this, however, is of no relevance to the present case. We are aware of no practice under applicable travel regulations – nor has Mr. Malone directed us to any such authority – which would permit an agency to reimburse an employee for a wholly unauthorized travel expense based upon economies allegedly realized by the employee during the course of his or her TDY travel. This portion of his claim, therefore, fails as well.

The denial of Mr. Malone's claim is affirmed.

EDWIN B. NEILL
Board Judge