

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

December 4, 2002

GSBCA 15805-RELO

In the Matter of GUILLERMO CHAVEZ

Guillermo Chavez, Mexico City, Mexico, Claimant.

N. Kurt Snyder, Chief, Travel Management Section, Office of Financial Management, Immigration and Naturalization Service, Washington, DC, appearing for Department of Justice.

NEILL, Board Judge.

In late January 2001, claimant, Mr. Guillermo Chavez, an employee of the Immigration and Naturalization Service (INS), received orders transferring him from the agency's offices in Los Angeles, California, to Mexico City. Mr. Chavez claims to have encountered numerous problems in being reimbursed for his temporary quarters subsistence expenses. He has asked the Board to review the agency's processing of his claims for these expenses. Both Mr. Chavez and his agency have provided the Board with detailed submissions regarding this case.

In reviewing these materials, the Board had occasion to question whether the claimant's dispute is reserved for resolution pursuant to grievance procedures provided for in a collective bargaining agreement covering agency employees. Upon inquiry, the agency has advised the Board that Mr. Chavez is, in fact, covered under a collective bargaining agreement it entered with the National Immigration and Naturalization Service Council of the American Federation of Government Employees.

The Board has recognized that, if a claim concerning travel or relocation expenses is subject to resolution under the terms of a grievance procedure mandated within a collective bargaining agreement, we lack the authority to settle the claim using our administrative procedures unless the agreement explicitly and clearly excludes the claim from its procedures. Bernadette Hastak, GSBCA 13938-TRAV, et al., 97-2 BCA ¶ 29,092; accord, e.g., Michael F. Morley, GSBCA 15457-RELO, 02-1 BCA ¶ 34,588 (2001); James P. Mullins, GSBCA 15263-TRAV, 01-1 BCA ¶ 31,401; Gail Favela, GSBCA 14727-TRAV, 99-2 BCA ¶ 30,432; Harold S. Rubinstein, GSBCA 14667-RELO, 99-1 BCA ¶ 30,113; Bernard F. Anderson, GSBCA 14438-TRAV, 98-2 BCA ¶ 29,924; Larry D. Morrill, GSBCA 13925-TRAV, 98-1 BCA ¶ 29,528; see also Dunkleberger v. Merit Systems Protection Board, 130 F.3d 1376 (Fed. Cir. 1997). Recently we have further concluded that

this is true even if the employee in question is not actually a member of the union. It is enough that the employee be an employee within the bargaining unit. James C. Henzie, 15820-TRAV, 02-2 BCA ¶ 31,900.

The agency has provided us with a copy of its collective bargaining agreement. The agreement states that the procedure negotiated for processing and resolving grievances is the exclusive procedure available to the union and employees in the unit. No exception is made for an employee's claim regarding travel or relocation expenses.

Accordingly, we conclude that the Board is without the authority to resolve this claim. The claim is, therefore, dismissed.

EDWIN B. NEILL
Board Judge