

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

July 24, 2002

GSBCA 15843-RELO

In the Matter of FELICIA H. PETERSCHMIDT

Felicia H. Peterschmidt, Aurora, CO, Claimant.

Judy Hughes, Travel Pay Services, Systems and Procedures, Columbus Center, Defense Finance and Accounting Service, Columbus, OH, appearing for Department of Defense.

DANIELS, Board Judge (Chairman).

The Defense Finance and Accounting Service (DFAS) has denied an employee's claim for temporary quarters subsistence expenses (TQSE) on the basis that the employee submitted the claim with knowledge that it is improper, so the claim is fraudulent. There is good ground for denying some of the claimed reimbursement, but it has nothing to do with the agency's spurious allegations: When an employee incurs temporary quarters subsistence expenses (TQSE) upon relocating to a new duty station, the Government has no obligation to pay for lodging expenses incurred for the purpose of housing the employee's pets.

Background

In October 2001, Felicia H. Peterschmidt moved from Germany to Colorado pursuant to orders by her employing agency, DFAS, transferring her to a new duty station. Ms. Peterschmidt's husband arrived in Colorado on October 22 and rented a room at a hotel near the facility where Ms. Peterschmidt would be working. Ms. Peterschmidt arrived on October 25, accompanied by the family's three dogs. At this time, the couple rented a second room at the same hotel. The dogs stayed in the second room, as did Ms. Peterschmidt's daughter, who supervised them. The dogs' carrying crates and some luggage were also stored in the second room. The Peterschmidts checked out of the hotel on November 4.

Ms. Peterschmidt later asked DFAS to reimburse her for TQSE, including all lodging charges imposed by the hotel, for the period from October 22 through November 4. She attached to her voucher a worksheet showing the actual cost of lodging and meals for each of the days in question and a receipt from the hotel showing the total amount she had paid.

An agency travel office representative noticed that the hotel receipt showed occupancy of two rooms, learned from a hotel employee that the occupant of the second room was "a female thought to be Mr. and Mrs. Peterschmidt's relative or daughter," and realized that no dependents other than Mr. Peterschmidt were listed on Ms. Peterschmidt's travel orders. From these facts, the agency representative concluded that by asking to be reimbursed for the cost of two rooms rather than one, Ms. Peterschmidt was "attempt[ing] to obtain funds under false pretenses." The agency did not ask Ms. Peterschmidt why she had rented the second room. Instead, it refused to reimburse her for any lodging costs other than those of the three nights when her husband stayed at the hotel by himself.

Ms. Peterschmidt responded by insisting that she had asked for reimbursement of nothing more than expenses she had actually incurred. She said that she was not an expert in Government travel law and did not know which of these expenses were reimbursable. She forthrightly explained that she rented the second room "to accommodate the overcrowding we would have had to endure with three animals and luggage and dog crates" and that her non-dependent daughter's being in the room with the dogs did not affect the charges for that room. She has demonstrated that the hotel's policy is to allow no more than two dogs in a room (unless all the dogs are small, which one of hers was not) and to require that dogs not be left in a room unattended. She also provided the agency with documentation from the hotel showing daily room charges. Ms. Peterschmidt has concluded her petition for review of the agency's determination with this assertion: "If I am not entitled to reimbursement for two rooms then so be it, but to withhold payment for my lodging because of a charge that is based on information that is false, misleading and irrelevant is unconscionable and reckless."

DFAS persists in its original position, modified only to recognize that Ms. Peterschmidt has provided sufficient documentation of her lodging costs.

Discussion

Alleging fraud by a Government employee in making a claim against her employer is a serious matter. Consistent with the requirements of the statute governing forfeiture of claims against the United States, an agency may deny a claim on this ground only if it shows "reasonable suspicion of fraud supported by evidence sufficient to overcome the usual presumption of honesty and fair dealing on the part of the claimant." Adil F. Khan, GSBCA 15766-RELO (July 9, 2002); Christine Griffin, GSBCA 15818-RELO (May 20, 2002); Floyd S. Wiginton, GSBCA 15583-RELO, 01-2 BCA ¶ 31,605. There is absolutely no basis for DFAS's allegation of fraud by Ms. Peterschmidt in this case. The employee has at all times been forthright about the reason for her claim, and she has responded promptly and fully to every agency request for documentation regarding the claim. We agree with Ms. Peterschmidt that DFAS's allegation is "unconscionable and reckless."

The real issue in this case, as recognized by Ms. Peterschmidt but not DFAS, is whether the cost of housing pets is reimbursable as part of the TQSE authorized by an agency to a transferred employee. Neither the relevant statute nor its implementing regulations speak directly to this issue, and neither this Board nor its predecessor in evaluating federal civilian employee relocation claims, the Comptroller General, has spoken to the precise matter. An examination of the regulations and Comptroller General decisions, however, leads us to conclude that this cost is not reimbursable.

TQSE may be paid by the Government for the costs of occupancy of temporary quarters by "only" an employee and members of the employee's immediate family. 41 CFR 302-5.8 (2001); see also JTR (the Department of Defense's Joint Travel Regulations) C13105 (Oct. 1, 2001). Pets, no matter how beloved, are not considered members of an employee's immediate family. 41 CFR 302-1.4(f); 2 JTR app. A. When an employee incurs costs for housing pets while he is traveling on official business, those costs are not reimbursable. Michael J. Washenko, B-219,094 (Dec. 5, 1985) (kennel expenses at permanent duty station); John A. Maxim, Jr., B-212,032 (July 6, 1983) (same); Major General Joseph T. Palastra, Jr., B-205,577 (May 18, 1982) (expenses of housing pets traveling with officer). Similarly, when a transferred employee incurs costs for housing pets while he is on a househunting trip, those costs are not reimbursable. Henry J. Gerke, III, B-227,189 (Mar. 25, 1988). Under the JTR, pet care expenses may not be reimbursed as miscellaneous expenses related to any form of official travel. JTR C4709-A.10. Nor may pets be considered "household goods" for the purpose of claiming temporary storage expenses, for live animals are expressly excluded from the regulatory definition of such goods. 41 CFR 302-1.4(j)(ii); 2 JTR app. A; Transportation-Household Goods-Live Animals, 65 Comp. Gen. 122 (1985); Ramon V. Romero, B-190,330 (Feb. 23, 1978).

Ms. Peterschmidt's decision to rent a second hotel room to provide space for her three dogs and their carrying cages was understandable, required by hotel rules, and undoubtedly wise. It is a decision for which she must bear the financial consequences, however, for TQSE does not cover the cost of housing pets.

This conclusion has no bearing on the portion of the claim involving the costs of the first hotel room, however. There is no doubt that that room was occupied by Ms. Peterschmidt and her husband for every night the couple spent in temporary quarters after she arrived in Colorado – from October 25 to November 4. Ms. Peterschmidt has provided documentation acceptable to the agency that she paid these costs. We direct DFAS to reimburse her for them.

STEPHEN M. DANIELS
Board Judge