

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

February 4, 2005

GSBCA 16541-RELO

In the Matter of DAVID W. SCHMIDT

David W. Schmidt, Kent, WA, Claimant.

Shirley Lee Autry, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

GOODMAN, Board Judge.

Claimant, David W. Schmidt, is a civilian employee of the Department of the Army. He asks this Board to review the agency's denial of his request for reimbursement of temporary quarters subsistence expenses (TQSE) incurred during a period of annual leave for vacation purposes.

Background

Claimant's travel orders authorized reimbursement of TQSE incurred during a permanent change of station (PCS) from Artesia, New Mexico, to Seattle, Washington. Claimant entered temporary quarters at his old duty station from May 26-28 while his household goods (HHG) were packed. Claimant and his dependants departed from his old duty station on May 29 and arrived in Portland, Oregon, on June 1. Claimant states that from June 2-4 he "interrupted his PCS travel status" and was on annual leave "visiting family" in Portland, Oregon. Claimant resumed his travel on June 5 and arrived that same day in Seattle, where his permanent quarters were ready for occupancy. He and his dependants remained in temporary quarters in Seattle until his household goods were delivered on June 8.

After claimant submitted a travel voucher, claimant was reimbursed TQSE incurred at his old duty station on May 26-28 and at his new duty station on June 5-8. He was also reimbursed expenses for five days of en route travel.¹ The agency denied claimant's request

¹ Calculated pursuant to section C5060(A) of the Joint Travel Regulations (JTR) by dividing 1703 miles traveled by 350 miles per day.

for reimbursement of TQSE for the three-day period when claimant was visiting his family, stating that claimant was on annual leave, claimant's presence in Oregon was not related to his transfer, and the quarters claimant occupied in Oregon were not reasonably near claimant's old or new duty station. Claimant seeks reimbursement in the amount of \$430 for two days² of TQSE during the period of annual leave.

Discussion

Claimant states that his supervisor "approved his itinerary" before he began his travel, and that his travel plans "were considered reasonably related to the transfer and the circumstances were considered unique."³ He contends that because Portland, where he stopped for three days for annual leave, was within one day's travel from his new duty station, it was within reasonable proximity to his new duty station and was therefore a proper location for temporary quarters. Thus, he contends that the expenses he incurred in Portland could be reimbursed as TQSE, as neither the Federal Travel Regulation (FTR) nor the Joint Travel Regulations (JTR) prohibit payment of TQSE while an employee is on annual leave.

With regard to claimant's allegation of prior approval, there is no indication on claimant's travel orders or elsewhere in the record of this case that the authorizing official was aware that claimant intended to include a period of annual leave while en route to his new duty station. As to his assertion that Portland was in reasonable proximity to his new duty station and that unique circumstances made Portland a proper location for temporary quarters, claimant apparently relies on the following provision of the FTR:

Where may I/we occupy temporary quarters at Government expense?

You and/or your immediate family may occupy temporary quarters at Government expense within reasonable proximity of your old and/or new official stations. Neither you nor your immediate family may be reimbursed for occupying temporary quarters at any other location, unless justified by special circumstances that are reasonably related to your transfer.

41 CFR 302-6.9 (2003).

This provision specifies the factors that determine the location of properly authorized temporary quarters and recognizes that an employee may under certain circumstances during a transfer occupy temporary quarters at a location other than the old or new duty station. Elmer L. Grafford, GSBCA 14176-RELO, 98-1 ¶ 29,700 (interpreting the previous version of this provision containing identical language). This provision does not provide additional bases for authorization of TQSE under circumstances when such authorization is prohibited. Had claimant not taken annual leave for vacation purposes while in Portland, it would be

² Claimant is apparently seeking additional reimbursement for two days since the reimbursement he received for TQSE and en route travel compensated him for twelve days of the fourteen day period from May 26 through June 8.

³ Claimant does not clearly specify what he considers to be unique circumstances.

proper to consider whether Portland's proximity to the new duty station or special circumstances justified Portland as a proper location for temporary quarters. We need not consider these factors, because another provision of the FTR, discussed below, prohibits authorization of TQSE for an employee on annual leave for vacation purposes.

Claimant states that neither the FTR nor the JTR prohibit payment of TQSE while an employee is on annual leave. The agency relied upon the following FTR provision in denying claimant's request for reimbursement of TQSE for the period he was on annual leave:

Under what circumstances may we authorize the TQSE allowance?

You may authorize a TQSE allowance on an individual-case basis when use of temporary quarters is justified in connection with an employee's transfer to a new official station. You may not authorize a TQSE allowance for vacation purposes or other reasons unrelated to the transfer.

41 CFR 302-6.303.

This provision prohibits authorization of payment of TQSE for employees who are on annual leave for the purposes of a vacation.⁴ See, e.g., Steven H. Jenkins, GSBCA 15810-RELO, 02-2 BCA ¶ 31,928; Elmer L. Grafford; Robert E. Jacob, GSBCA 13792-RELO, 97-2 BCA ¶ 29,918 (interpreting the previous version of this regulation containing identical language). During the period of annual leave at issue, claimant was visiting family members in Portland. Such use of annual leave for personal reasons is a vacation and not related to claimant's transfer, even though this period did not delay claimant's occupancy of permanent quarters at his new duty station. Larry C. Larson, B-230390 (Sept. 13, 1989).

The agency properly denied claimant's request for reimbursement of TQSE while he was on annual leave for vacation purposes.

Decision

The claim is denied.

ALLAN H. GOODMAN
Board Judge

⁴ We do not find a similar prohibition in the JTR. However, the FTR is applicable to all federal civilian employees. 41 CFR 300-1.1. As this FTR provision establishes a mandatory responsibility of the agency not to authorize TQSE for an employee for vacation purposes, the JTR's silence on this issue does not alter the agency's responsibility. Vera A. Wood, GSBCA 15637-TRAV, 02-1 BCA ¶ 31,693 (2001).

