

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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August 9, 2005

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GSBCA 16630-RELO

In the Matter of KENNETH R. WHEELER, JR.

Kenneth R. Wheeler, Jr., Philadelphia, PA, Claimant.

Randy Keuten, Supervisor, Travel Section, Financial Services Center, Department of Veterans Affairs, Austin, TX, appearing for Department of Veterans Affairs.

**BORWICK**, Board Judge.

Kenneth R. Wheeler, claimant, an employee of the Department of Veterans Affairs, agency, seeks reimbursement for an additional \$1979.25 of temporary quarters subsistence expenses (TQSE) associated with claimant's permanent change of station (PCS) from Coraopolis, Pennsylvania, to Philadelphia, Pennsylvania. The agency had reimbursed claimant using the formula prescribed in the Federal Travel Regulation (FTR) for calculating the actual expense method of TQSE. Claimant asserts that there were "matters beyond his control" -- his busy agenda -- that resulted in the incurrence of the added TQSE and that those reasons entitle him to increased reimbursement.

The agency maintains that in calculating claimant's TQSE reimbursement it followed the formula in the FTR for calculating TQSE and that it is not permitted to deviate from that formula. We deny the claim as the agency correctly applied the FTR in calculating claimant's TQSE reimbursement.

## Background

The facts shown by the record are as follows. The agency granted authority for claimant's PCS in the interest of the Government from Coraopolis, Pennsylvania, to Philadelphia, Pennsylvania. The agency originally authorized thirty days of actual expense

method TQSE, although it subsequently approved a thirty-day TQSE extension, which resulted in a total authorized TQSE period of sixty days. Claimant's originally authorized thirty-day TQSE period began on November 12, 2004, and claimant began his new employment on November 15, 2004.

Claimant was out of the office on business meetings in the Philadelphia area on November 16 and 17. He moved into the office on November 18 and 19, attended orientation from November 22 through 24, and visited immediate family for Thanksgiving from November 25 through 28. Claimant then traveled on official business from November 28 through December 3.

Claimant states that on November 26, 2004, he requested a thirty-day extension of his TQSE period because his busy agenda would prevent him from seeking permanent accommodations before the week of December 6. Claimant states that because the agency did not approve his thirty-day extension request for his TQSE period until December 12, he was "unable to reserve less costly [temporary] quarters and was forced to remain in my original quarters at the rate of [ninety-one dollars] per day."

Claimant began apartment hunting on December 6 and was able to find an apartment with a move-in date of January 11, 2005. Claimant ultimately moved into permanent quarters on January 11, 2005, twenty-nine days into the authorized thirty-day TQSE extension.

In February 2005, claimant submitted a voucher for the entirety of his incurred expenses during the period of the TQSE extension, including lodging expenses billed to him at a \$91 daily rate. The agency rejected his voucher for the entire incurred amount and reimbursed claimant based on the rates prescribed in the FTR.

Claimant requests that the Board order the agency to reimburse him for the entirety of his incurred expenses. He claims that his hectic schedule in November 2004, and the agency's failure to approve his TQSE extension before December 12, 2004, were matters beyond his control that prevented him from seeking less costly quarters and entitled him to reimbursement for all actual expenses.

### Discussion

For the first thirty days of TQSE, the FTR prescribes a formula for reimbursement of TQSE under the actual expense method. The FTR allows reimbursement up to a maximum allowable amount, which is the maximum daily amount times the number of days in temporary quarters. 42 CFR 302-6.100 (2004). The maximum daily amount is calculated using the applicable per diem rate for the employee, three-quarters of the per diem rate for

the spouse and children twelve or older, and one-half the per diem rate for children under twelve. *Id.* The applicable per diem rate for the actual expense method of TQSE reimbursement is the standard Continental United States (CONUS) rate.

After the first thirty days, the FTR reduces the rate used to calculate the maximum daily amount to three-quarters of the standard CONUS per diem rate for the employee, one-half of that per diem rate for the spouse and children twelve and older, and two-fifths of the per diem rate for children under twelve. *Id.*

Reimbursement of actual expense method TQSE is based on the formula specified in the FTR and will not compensate the employee for all of his incurred expenses if those expenses exceed the maximum allowable amount. *Andrew K. Moghrabi*, GSBCA 16335-RELO, 04-2 BCA ¶ 32,679. The agency lacks authority to pay TQSE in excess of the maximum allowable amount specified by the FTR. *Cheryl A. Korman*, GSBCA 14916-RELO, 99-2 BCA ¶ 30,419; *John C. Permaul*, GSBCA 15828-RELO, 02-2 BCA ¶ 31,896.

Claimant says that his increased expenditure was a matter beyond his control and that the agency should therefore pay his increased expenses. Claimant's argument paraphrases the FTR's standard for extension of the TQSE period. Under the FTR, a "compelling reason," defined as a "reason beyond [the employee's] control" and "acceptable to [the] agency," may warrant extension of the authorized *period* of actual expense TQSE reimbursement. *See* 41 CFR 302-6.104, -6.105. The extension provision for the TQSE period, however, does not change the reimbursement formula specified elsewhere in the FTR.

The claim is denied.

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Anthony S. Borwick  
Board Judge