

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

April 24, 2002

GSBCA 15813-TRAV

In the Matter of REBECCA L. MOORMAN

Rebecca L. Moorman, Amherst, NY, Claimant.

Michael D. Bunker, Senior Attorney, United States Customs Service, Buffalo, NY,
appearing for Department of the Treasury.

DANIELS, Board Judge (Chairman).

Rebecca L. Moorman is a customs import specialist employed by the United States Customs Service at the Port of Buffalo, New York. Ms. Moorman has asked the Board to review the denial by her Port Director of her request for reimbursement of expenses she incurred in traveling between rotational assignments.

Because Ms. Moorman noted that her chapter of the National Treasury Employees Union (NTEU) has been involved in the dispute over reimbursement of her travel expenses, we asked the employee and the agency to address the question of our jurisdiction to settle this claim. As we noted in a letter to the parties, the Civil Service Reform Act provides that generally, collective bargaining agreements between unions and agency management are to provide procedures for the settlement of grievances, and that with limited exceptions, the procedures set out in such an agreement "shall be the exclusive administrative procedures for resolving grievances which fall within its coverage." 5 U.S.C. § 7121(a)(1) (2000). The Court of Appeals for the Federal Circuit has consistently held that this law means that if a matter is arguably entrusted to a grievance procedure, no review outside that procedure may take place unless the parties to the agreement have explicitly and unambiguously excluded that matter from the procedure. Dunkleberger v. Merit Systems Protection Board, 130 F.3d 1476 (Fed. Cir. 1997); Muniz v. United States, 972 F.2d 1304 (Fed. Cir. 1992); Carter v. Gibbs, 909 F.2d 1452 (Fed. Cir.), cert. denied, 498 U.S. 811 (1990).

At our request, the agency provided to us a copy of the collective bargaining agreement between the NTEU and the Customs Service, and both the agency and the employee have commented on our jurisdiction to hear the case. The collective bargaining agreement contains, at Article 31, a dispute resolution procedure. This procedure covers all issues raised by employees in the bargaining unit and is "the exclusive administrative procedure[] available to bargaining unit employees and the parties [NTEU and the Customs

Service] for resolving disputes which fall within its coverage." The agreement defines "dispute" to include any issue concerning "(1) the effect or interpretation . . . of this Agreement; or (2) any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment." The agreement specifically excludes certain matters from the coverage of the dispute resolution procedure.

Ms. Moorman is a member of the bargaining unit. The matter raised by her is not specifically excluded from the coverage of the agreement's dispute resolution procedure. To the contrary, the matter involves either the effect or interpretation of Article 23 of the agreement, "Travel" (which includes local travel); a claimed violation, misinterpretation, or misapplication of laws, rules, or regulations affecting travel (a condition of employment); or both.

Because Ms. Moorman's claim is governed by the collective bargaining agreement and is not specifically excluded from that agreement's "exclusive administrative [dispute resolution] procedure[]," we have no jurisdiction to consider the claim. E.g., Robert M. Blair, GSBCA 15570-RELO, 01-2 BCA ¶ 31,511; James P. Mullins, GSBCA 15263-TRAV, 01-1 BCA ¶ 31,401; Jesse Chavez, GSBCA 15443-TRAV, 01-1 BCA ¶ 31,365.

Ms. Moorman asserts that agency management has not been willing to negotiate various issues regarding conditions of employment, and that the union has not taken certain matters to arbitration (a possible avenue for dispute resolution under the collective bargaining agreement) due to lack of funds. These assertions are separate matters which are appropriately addressed to other entities. Even if true, they have no impact on our authority to hear this case.

The case is dismissed.

STEPHEN M. DANIELS
Board Judge