

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

January 16, 2003

GSBCA 15987-TRAV

In the Matter of JERRIE L. SPLICHAL

Jerrie L. Splichal, Lincoln, NE, Claimant.

John R. Keneipp, Acting Deputy Director, Travel Systems & Procedures, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

NEILL, Board Judge.

Claimant, Ms. Jerrie L. Splichal, is a civilian employee of the National Guard. She seeks reimbursement for an administrative registration fee she paid in order to attend a workshop in April of last year. The claimant's agency has denied payment on the ground that the fee covers nothing more than independent charges for light refreshment and entertainment expenses for a social event – reimbursement of which is forbidden under the Joint Travel Regulations (JTR). Based upon the record before us, we conclude that the fee should be paid. An administrative registration fee is reimbursable under applicable regulation, and the agency has not convinced us that the fee in question clearly covered nothing more than the claimant's personal costs of light refreshments and entertainment.

Background

In April 2002, Ms. Splichal was issued travel orders authorizing her to proceed to Little Rock, Arkansas, for technician training. While in Little Rock, it was the intention of Ms. Splichal to attend the 2002 Army National Guard Excess Management Workshop. The orders noted that government quarters and messing facilities were not available.

An announcement sent out earlier to various National Guard offices provided details concerning the scheduled workshop. The training was to be offered at the Army National Guard Professional Education Center (PEC) in Little Rock. Among other informational items, the announcement stated:

Attendees must pay a workshop fee of \$25.00 when registering at [the] PEC. This fee covers the cost of the social and two breaks, each day, during the conference. The social is scheduled at 1900 hours on 16 April in the lobby of Independence Hall.

A subsequent e-mail message from an officer responsible for organizing the workshop advised those interested in attending that billets had become available at no charge to the state attendees. In addition, this message advised potential attendees that the \$25 fee would be reimbursable if "on your order." Accordingly, Ms. Splichal's travel orders were amended to state: "Reimbursement of registration fee may be authorized based on receipt provided to attendee."

On return from the workshop, Ms. Splichal submitted a claim for the cost of meals and incidental expenses and for the \$25 registration fee. The request for reimbursement of the registration fee was questioned on the ground that it represented nothing more than the cost of light refreshments and a social, neither of which is reimbursable under regulation. This prompted the claimant to send an e-mail message to the officer in charge of the workshop asking if it was true that the \$25 fee was only for coffee and the social hour. The officer replied: "The conference fee was not used for just food stuff. The fee is reimbursable and we have had it cleared through NGB [National Guard Bureau] legal."

The travel officials at the National Guard office apparently found this explanation unsatisfactory. Ms. Splichal thereupon appealed the agency's denial of her claim. The state National Guard office then forwarded the claim as a "doubtful claim" to the Defense Finance and Accounting Service (DFAS). DFAS, in turn, has forwarded the matter to us for review. Before doing so, however, a DFAS official sought additional information from the officer who had first replied to Ms. Splichal's request for information regarding the nature of the registration fee. The officer had since been transferred, but an associate, whose name appeared on the registration receipt with that of the transferred officer, replied that the registration fee was as described on the memorandum announcing the workshop and that each participant in the workshop received a receipt for the conference registration fee. This individual also explained that no sit-down meal was provided at the social or during the breaks, that the snacks provided at both consisted of "finger type food, soft drinks and water," and that the purpose of the social and the breaks was to allow attendees "to exchange ideas, to discuss issues, and to feel they are part of the workshop."

Discussion

In the agency report filed for this case, DFAS refers us to two provisions of the Joint Travel Regulations (JTR) which it believes are controlling. The first reads:

Miscellaneous Expenses. Independent charges/fees for light refreshments/snacks are not a reimbursable expense. ***Charges/fees for light refreshments/snacks are reimbursable ONLY when included as part of the conference registration fee.***

JTR C4955-E.4 (April 1, 2002)(emphasis in original). The second provision reads:

Entertainment Expenses. Entertainment expenses for social events and other personal expenses not directly required by official duties are not reimbursable.

JTR C4955-G. These provisions, according to DFAS, reflect a principle well established in decisions rendered by the General Accounting Office (GAO), our predecessor in settling disputes such as this. Under that line of decisions, conference registration fees covering no expenses other than those related to subsistence are not reimbursable. E.g., Reimbursement of Registration Fees, B-182527 (Feb. 12, 1975). The agency, therefore, concludes: "The fee paid by Ms. Splichal is for expenses that can be considered as being provided for her by her meals and incidental expense (M&IE) allowance or as purely personal."

We disagree with both the agency's interpretation of the relevant facts in this case and its reliance upon the two JTR provisions cited.

With regard to the facts, the record, as currently before us, does not support the agency's fundamental assumption that the \$25 registration fee was solely for the cost of the social and two breaks each day. The initial announcement of the workshop did, of course, advise interested parties that the registration fee would cover the cost of the social and two breaks each day. From such a statement, however, one can scarcely conclude that these are necessarily the only costs covered by the registration fee. We find nothing in the announcement to suggest that such a conclusion is justified. Further, when asked if the fee covered only "coffee and the social hour," the officer responsible for organizing the workshop expressly stated the registration fee covered more than "food stuff." The officer also assured the claimant that the fee was considered reimbursable and had been "cleared" through counsel. Notwithstanding this explanation, the agency continues to harbor the suspicion that the registration fee covered only the costs associated with the social and daily breaks. It offers nothing, however, which would rebut the officer's clear statement or the subsequent explanation of the officer's associate that only light refreshment was involved in either the conference breaks or the social. We see no reason why, under the circumstances, we should not accept these explanations at their face value.

Given these facts, we find the agency's reliance on the two JTR provisions set out above to be misplaced. These provisions must be read in conjunction with other provisions in the JTR relating to conferences. The costs of light refreshments for morning, afternoon, or evening breaks is most definitely one of many administrative costs to be considered by conference planners. JTR C4950-F.5. The JTR, however, provides that these and other administrative costs are not to be included in an attendee's per diem allowance payment for attendance at a conference. Per diem is intended only to reimburse the attendee's subsistence expenses. Administrative costs must be paid separately. JTR C4950-L. Indeed, the regulations go so far as to provide expressly that when light refreshments are furnished at a conference at a nominal cost or no cost, no deduction may be made in the attendee's M&IE allowance. JTR C4950-O.1.¹

¹ These provisions implement similar provisions found in the Federal Travel Regulation (FTR) at 41 CFR pt. 301-74. On January 10, 2000, the General Services Administration published a final rule in the Federal Register adding this part on conference planning to the FTR. The effective date of the rule was January 14, 2000. 65 Fed. Reg. 1326 (Jan. 10, 2000).

Typically, if the cost of light refreshments provided during a conference is not absorbed by the host, it is passed on along with other administrative costs to the attendees through the conference registration fee. Under the first of the provisions cited by the agency, the registration fee is identified as the one and only medium through which this particular administrative cost can be reimbursed. We, therefore, see this regulation as supporting Ms. Splichal's claim rather than precluding it.

What however of the second regulation? Should the cost of the social be considered nothing more than an entertainment expense? The entertainment expense referred to in this provision is described as a personal expense not directly required by official duties. It is true that attendance at the social was not mandatory. Nevertheless, the social was closely related to the workshop and not essentially different from the breaks between daytime sessions. One of the workshop organizers has explained that the type of refreshments served during the day at breaks and in the evening at the social was the same and that both events shared the same fundamental purpose. Under these circumstances, we do not consider that the portion of the registration fee which covered the social constituted a personal entertainment expense as that term is used in the JTR provision which the agency cites.

Finally, we see no reason for the agency's lingering concern that the workshop registration fee seeks to recover *only* the costs associated with light refreshments and snacks made available to attendees during the course of a conference. As already noted, in this case we are not convinced that the costs covered by the fee were limited solely to costs of this nature. Nevertheless, even if this should be so, we would see no reason why this would preclude reimbursement of the fee. The agency's concern apparently springs from the fact that, under some earlier decisions of the GAO, such costs were not allowed because they were deemed to be subsistence expenses already provided for in the employee's per diem allowance. As we have explained, under current regulations in effect since early 2000, these costs are now considered bonafide administrative expenses associated with a conference. As such, they are to be distinguished from subsistence expenses. Consequently, even if these costs happen to be the only administrative costs recovered through a registration fee, this should not prevent reimbursement of that fee.

Ms. Splichal's claim is granted. The registration fee should be reimbursed.

EDWIN B. NEILL
Board Judge