

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

June 25, 2003

GSBCA 16021-TRAV

In the Matter of ROBERT GAMBLE

Robert Gamble, APO Area Europe, Claimant.

Michael A. Novak, Traffic Manager, Logistics Readiness Squadron, Department of the Air Force, APO Area Europe, appearing for Department of the Air Force.

DeGRAFF, Board Judge.

An agency may limit an employee's reimbursement for renewal agreement travel, so long as the limitation is allowed by the regulations in effect when the employee performed the travel.

Background

Since 1991, Robert Gamble has been a Department of Defense (DoD) Dependents Schools teacher in England. After completing each prescribed period of service and agreeing to another period of service, Mr. Gamble became eligible for renewal agreement travel between England and his place of residence in the United States, which is Portland, Oregon. In connection with Mr. Gamble's 2001 renewal agreement travel, DoD issued a travel authorization that allowed him to make his travel arrangements without using a commercial travel office (CTO) under contract to provide travel services to the Government. If Mr. Gamble decided to make his travel arrangements without using a CTO, his travel authorization stated that his reimbursement would be limited to the cost of Government-provided transportation by the most direct route and the most economical mode of travel. In addition to listing Portland, Oregon, as Mr. Gamble's place of residence destination, the authorization also listed Tualatin, Oregon; Seattle, Washington; and Sacramento, California as alternate destinations.

For his July 2001 travel, Mr. Gamble made his arrangements and purchased airline tickets directly from American Airlines. He and his three family members left London, England, and flew to Seattle, Washington. From there, they proceeded by car to Portland, Oregon, and to Sacramento, California. From Sacramento, they flew back to England. The flight from England to Seattle was routed through Dallas, Texas, as was the return flight to England.

Mr. Gamble submitted a claim to DoD for reimbursement of the cost of his renewal agreement travel air fare, which was \$3559.80 for him and his family. DoD reimbursed Mr. Gamble \$2429.84 because, it said, this was the amount it would have cost DoD to provide transportation to Mr. Gamble and his family if he had made his travel arrangements through the CTO. DoD said it arrived at the \$2429.84 figure by using a combination of contract carrier city-pair fares, although DoD was not able to reconstruct either the route or the schedule that would have produced an air fare cost of \$2429.84.

After Mr. Gamble asked DoD several times to explain how it arrived at its \$2429.84 figure, DoD said that it could have arranged for Mr. Gamble and his family to fly between London and Portland via Newark, New Jersey, at a cost of \$2504, by combining a contract carrier city-pair fare available between London and Newark, and a contract carrier city-pair fare available between Newark and Portland. DoD and Mr. Gamble agree that flights between London and Portland can be routed through many cities and that there are many possible direct routes. Mr. Gamble says that routing his trip through Newark was not an option, however, due to flight schedules in mid-2001. DoD does not dispute Mr. Gamble's statement. It says that because Mr. Gamble's travel was not arranged through the CTO, DoD did not consider whether a fare was available at a specific time.

There were no contract carrier city-pair fares between London and Portland in July 2001. There were contract carrier city-pair fares between London and Dallas, and between Dallas and Portland, and if Mr. Gamble had made his travel arrangements using those fares, his tickets would have cost \$4160. There were also contract carrier city-pair fares available from American Airlines from London to Seattle, and from Sacramento to London. If Mr. Gamble had made his travel arrangements using those fares, his tickets would have cost \$5520. Mr. Gamble asks us to review DoD's decision to reimburse him less than the amount he paid for his tickets.

Discussion

Renewal agreement travel is authorized by statute and implemented in the Federal Travel Regulation, as supplemented by the Joint Travel Regulations (JTR), which apply to civilian employees of DoD. 5 U.S.C. § 5728(a) (2000), 41 CFR 302-1.13 (2001), JTR vol. 2, ch. 4, pt. D. According to the statute and the regulations, Mr. Gamble was eligible for renewal agreement travel in 2001, because he had satisfactorily completed an agreed-upon period of service in England and had agreed to serve for another period there. Being eligible for such travel, Mr. Gamble should be reimbursed by DoD for expenses he incurred while traveling between his duty station in England and the place where he resided when he transferred from the United States. JTR C4150, C4154. Mr. Gamble's claim for reimbursement is governed by the regulations as they read when he traveled in July 2001. Below, we examine those regulations to see if they limit the amount of Mr. Gamble's reimbursement.

Because Mr. Gamble traveled to and from authorized alternate destinations (Seattle and Sacramento), his reimbursement is limited to what it would have cost to travel between London and Portland by a usually traveled route. 41 CFR 302-1.13(b)(3), JTR C4162-E. Neither DoD nor Mr. Gamble has asserted that there is any one route that is usually traveled between London and Portland, and they agree that flights between London and Portland can be routed through many cities. Their assessment is consistent with our previous observation that there can be more than one usually traveled route between two points. Lewis T. Moore, GSBCA 14885-TRAV, 99-1 ¶ 30,374. As we explained in Moore, we will not disturb an agency's decision regarding what constitutes a usually traveled route, so long as the decision is reasonable. Because DoD does not know what route it chose when it arrived at the \$2429.84 figure it initially used as a limitation upon Mr. Gamble's reimbursement, we cannot determine that DoD reasonably decided the route was a usually traveled route. DoD chose a route through Newark when it arrived at the \$2504 figure it later wanted to use as a limitation upon Mr. Gamble's reimbursement. However, Mr. Gamble says routing his trip through Newark was not an available option when he traveled, and DoD has not contradicted Mr. Gamble's statement. Without knowing for certain that a route through Newark was an option, we cannot determine that DoD reasonably decided the route was a usually traveled route. Because we cannot conclude that DoD made a reasonable decision as to what constitutes a usually traveled route between London and Portland, the "usually traveled route" restriction does not limit Mr. Gamble's reimbursement to either \$2429.84 or \$2504.

The regulations in effect when Mr. Gamble traveled provided that if an agency authorized an employee to make travel arrangements either without using a CTO or by purchasing tickets directly from a common carrier, the employee's reimbursement would be "limited to the amount the employee would have paid if the arrangements had been made directly through the carrier(s)." JTR C2207-B.2. Mr. Gamble reads this to say that because he made his travel arrangements directly through a common carrier, his reimbursement is limited to the amount he paid to the carrier. The requirement found in JTR C2207-B.2 can best be understood when it is read in light of several decisions issued by the General Accounting Office (GAO) in the 1980s, which explained that if an employee used a travel agency or purchased a ticket directly from an airline, the employee's reimbursement was limited to the amount the employee would have paid if he had purchased the ticket directly from the airline at the discount rate made available to Government employees by the airline

or airlines. 63 Comp. Gen. 592 (1984); 60 Comp. Gen. 445 (1981); 59 Comp. Gen. 433 (1980). Considering the language of JTR C2207-B.2 in light of the GAO decisions, the regulation limits an employee's reimbursement to the amount he would have paid if he had made his arrangements directly through the carrier at the discounted contract carrier city-pair fares.¹ In Mr. Gamble's case, however, the city-pair fare for the route he traveled (\$5520) exceeded the amount he paid for his tickets (\$3559.80). Thus, JTR C2207-B.2 does not limit Mr. Gamble's reimbursement to anything less than \$3559.80.

Finally, if contract carrier city-pair service was available to Mr. Gamble, he was required to use that service. 41 CFR 301-10.106; JTR C2001-A.2. If he did not, his reimbursement is limited to the cost DoD would have paid for contract carrier city-pair service or the cost actually paid by Mr. Gamble, whichever is less. JTR C2206-B, -E. There was contract carrier city-pair service available from London to Seattle, and from Sacramento to London, which is the route traveled by Mr. Gamble. Although Mr. Gamble used the contract carrier, he did not use the city-pair fare. Instead, he obtained a fare (\$3559.80) that was less than the contract carrier city-pair fare (\$5520). Thus, JTR C2206-B and -E do not limit Mr. Gamble's reimbursement to anything less than \$3559.80.

Because the relevant regulations do not limit the amount of Mr. Gamble's reimbursement, the claim is granted.

MARTHA H. DeGRAFF
Board Judge

¹ This reading is consistent with the terms of Mr. Gamble's travel authorization, which said his reimbursement would be limited to the cost of Government-provided transportation by the most direct route and most economical mode of travel if he made his arrangements without using a CTO. Government-provided transportation would have been at the contract carrier city-pair fares.