

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

December 18, 2003

GSBCA 16302-TRAV

In the Matter of ERIC B. FORT

Eric B. Fort, Dallas, TX, Claimant.

J. Patrick O'Toole, Director, Division of Travel Management, Social Security Administration, Baltimore, MD, appearing for Social Security Administration.

DANIELS, Board Judge (Chairman).

The Social Security Administration (SSA) believes that it has twice overpaid one of its employees, Eric B. Fort, for expenses he incurred while traveling on official business. SSA has recovered the amount of the first overpayment, and a bit of the second overpayment, by deducting them from payment due on subsequent travel vouchers. The agency has asked the employee to reimburse it for the remainder of the amount of the second overpayment. In response, Mr. Fort has requested that the Board find that the second alleged overpayment was in fact not an overpayment and direct SSA to take the following actions:

- afford him due process;
- return to him the amount of the first overpayment;
- waive the requirement that he reimburse the agency for both overpayments;
- purge the incident from his personnel file;
- pay him in advance for expenses of any future travel assignment it directs him to undertake;
- investigate the agency travel office's processing of vouchers and responses to employee inquiries; and
- require the person or persons who made the overpayments to reimburse the agency for them.

We evaluate the employee's request within the parameters of our authority.

Background

Mr. Fort was on a long-term temporary duty assignment during June and July of 2003. On June 30, he submitted his first voucher for expenses incurred while on this assignment, covering the period from June 16 through June 25. On the voucher, he claimed reimbursement in the total amount of \$1140.19. The agency approved the voucher on July 16. It then made two electronic funds transfers to Mr. Fort's bank account on July 18. Each transfer was in the amount of \$1140.19.

On July 9, Mr. Fort submitted his second voucher for travel expenses, covering the period from June 25 to July 7. On this voucher, he claimed reimbursement in the amount of \$1390.32. The agency approved the voucher on July 21 in the amount of \$1285.72 – the amount claimed less \$104.60, the expenses attributable to June 25, for which Mr. Fort had already been paid (twice) per the first voucher. By letter dated July 22, SSA informed Mr. Fort of the deduction and the reason for it. The agency then made two electronic funds transfers to Mr. Fort's bank account on July 24. One was in the amount claimed on the voucher, \$1390.32; the other was in the amount approved, \$1285.72.

On August 25, Mr. Fort submitted his third voucher for travel expenses, covering the period from July 8 through July 26. On this voucher, he claimed reimbursement in the amount of \$1936.53.

On August 26, before SSA took any action on the third voucher, an agency employee sent to Mr. Fort an electronic mail message which stated, "It has come to our attention that you were reimbursed twice for the 6/16/03 voucher. One payment was processed through Travel Manager and one through the Accounts Payable system. Please submit a check payable to Social Security Administration in the amount of **\$1140.19**." Mr. Fort responded, "I was under the impression that the voucher payments were for my next to last travel voucher, and [my recent] relocation move I am still waiting for my last travel voucher, and I do not have the money in any way to imburse [sic] for the mistake which was not my fault. . . . I respectfully request a waiver of this amount."

Instead of providing a waiver, SSA's Travel Operations Branch sent Mr. Fort a letter on September 2 reiterating the request that he submit to SSA a check (or money order, this time) in the amount of \$1140.19.

Then on September 12, the agency approved the employee's third travel voucher. Approval came, however, only after the agency had made two deductions – one in the amount of \$73.82, representing alleged corrections to amounts allowed for meals and incidental expenses (though the sum of the individual alleged corrections is \$70.60 and encompasses lodging expenses as well as meals and incidental expenses), and one in the amount of \$1140.19, representing recovery of the overpayment on the first voucher.

On September 22, the SSA Travel Operations Branch sent Mr. Fort a letter regarding the second overpayment. This letter noted that \$1390.32 and \$1285.72 were separately transferred to the employee's bank account on July 24. The letter asserted that the second

amount was proper reimbursement for Mr. Fort's expenses of traveling between June 26 and July 7, and it asked him to submit to SSA a check or money order for the first amount.

Also on September 22, Mr. Fort submitted yet another voucher for travel expenses, claiming reimbursement in the amount of \$64. The agency approved the voucher on October 28, but only after deducting the entire amount claimed, to recover some of the overpayment on the second voucher. After this recovery of \$64, the agency contends that Mr. Fort owes it \$1326.32 – the amount of the second overpayment (\$1390.32) less \$64.

Discussion

Mr. Fort appears to have a very expansive view of the Board's authority. He sees us as being able not only to determine appropriate resolutions of agency-employee disputes regarding payments of travel expenses, but also to investigate operations of agency travel offices, discipline employees of those offices, edit personnel files, direct future revisions to travel orders, and waive repayments of debts owed to agencies.

Our authority is far more circumscribed than Mr. Fort perceives. We have the power, pursuant to 31 U.S.C. § 3702 and a delegation of authority from the Administrator of General Services, to "settle claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station." 31 U.S.C. § 3702(a)(3) (2000). Beyond that, however, the Board cannot do the sorts of things Mr. Fort wants us to do. As a quasi-judicial tribunal, the Board does not perform independent investigations with regard to cases presented to it. Marion T. Silva, GSBCA 15673-RELO, 02-1 BCA ¶ 31,815; Pamela R. Harris, GSBCA 15645-RELO, 01-2 BCA ¶ 31,640. Whether the SSA's duplicate payments on Mr. Fort's travel vouchers, and its methods for dealing with the issue, are systemic problems worthy of investigation and/or disciplinary action is a question we must leave to agency management. Similarly, we have no authority to direct an agency to modify in any way an employee's personnel files or to pay an employee in advance for expenses of official travel he undertakes. Additionally, the determination as to whether to waive a Government claim against an employee for repayment of an erroneous payment of travel expenses is to be made by the head of the agency involved and is not reviewable by the Board. 5 U.S.C. § 5584. Consequently, we will decide only the substantive questions of whether SSA made erroneous payments on Mr. Fort's travel vouchers and, if the agency did so, whether the employee is obligated to repay the amounts of the erroneous payments. See Thelma H. Harris, GSBCA 16303-RELO (Dec. 15, 2003). The remainder of the claimant's requests must be dismissed.

As to the matter to be resolved by us, we have no doubt. The record is clear that in response to the first voucher, SSA made two payments, each in the amount of \$1140.19, when it should have made only a single payment. The record is also clear that in response to the second voucher, SSA made two payments, one in the amount of \$1390.32 and one in the amount of \$1285.72, though only the second payment was approved. The extra payments were erroneous. Because Mr. Fort was not entitled to them, whether he realized that when he received them or not, he is obligated to repay them. See, e.g., United States v. Stahl, 151 U.S. 366, 367-68 (1894); United States v. Burchard, 125 U.S. 176, 180-81 (1888); DiSilvestro v. United States, 405 F.2d 150, 155 (2d Cir. 1968), cert. denied, 396 U.S. 964 (1969). SSA's collection of the debt must, of course, be in accordance with the agency's own

regulation, 20 CFR pt. 422 subpt. D (2003). See Gayla Chappel Reiter, B-219734 (Apr. 16, 1986). This regulation provides the procedural safeguards Mr. Fort seeks.

STEPHEN M. DANIELS
Board Judge