

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

November 30, 2004

GSBCA 16507-TRAV

In the Matter of STEPHEN S. TALBOT

Stephen S. Talbot, Anchorage, AK, Claimant.

Cindy Osif, Supervisor, Travel and Relocation Payments, Fish and Wildlife Service, Office of the Secretary, National Business Center, Department of the Interior, Denver, CO, appearing for Department of the Interior.

GOODMAN, Board Judge.

Claimant, Stephen S. Talbot, is an employee of the Department of the Interior, United States Fish and Wildlife Service (USFWS). He has requested that this Board review the decision of the agency's National Business Center denying reimbursement of a portion of his expenses incurred during temporary duty (TDY) travel.

Background

Claimant, a botanist, was issued original travel orders which authorized round-trip travel between July 14 and July 23, 2004, from his duty station in Anchorage, Alaska, to Kona, Hawaii. The purpose stated on the travel orders was to present a paper at and attend a conference in Kona which began on July 18, 2004. The paper and conference presentation was a joint effort by claimant and his wife, a research geneticist for another division of the Department of the Interior, the United States Geological Survey (USGS). Claimant's wife did not receive funding from the USGS to travel to the conference. Claimant's supervisor authorized TDY travel to commence on July 14 so claimant could travel first to Oahu to complete the preparation of his conference presentation and also assist his wife with a collaborative effort between the USFWS and USGS for government-sponsored research (regarding a bird whose wintering area is Hawaii) which was not the subject of the conference in Kona.

The airline flights on the government-approved carrier required flights from Anchorage to Oahu and Oahu to Kona. Flights from Anchorage to Oahu were on Wednesdays and Saturdays, while flights from Oahu to Kona were daily. Claimant and his wife traveled to Oahu on July 14 and remained there four days before traveling to Kona.

While on Oahu claimant and his wife concluded the preparation of their joint presentation for the conference on Kona, and they also jointly conducted the other government-sponsored research by gathering data and meeting with scientists in Honolulu. The USGS did not provide funding for claimant's wife's travel. Her airline ticket and all her travel expenses were paid with personal funds, as were claimant's expenses in excess of the amount authorized for his travel.

Claimant submitted a travel voucher for reimbursement of his expenses. The amounts claimed for lodging and miscellaneous and incidental expenses (M&IE) were identical for each day, except for the first day on Oahu, in which the M&IE was a lesser amount, apparently adjusted for the first day of travel. The agency denied reimbursement of \$735.28¹ claimed by claimant for lodging and M&IE while on Oahu on July 14 through 17, on the basis that these expenses were excessive, unjustified, and not essential to official business, as they were incurred for lodging at a resort for four nights prior to the conference, at a location different from the conference, with a family member, and for personal reasons.

The agency asserts that claimant could have prepared for the conference at his duty station in Alaska and thereafter commenced official business travel on Saturday, July 17, directly to Kona, as the other government-sponsored research conducted on Oahu by claimant and his wife was not the subject of claimant's TDY. Additionally, since the USGS did not fund claimant's wife's travel, "it would appear that the [USGS] deemed the research unnecessary." The agency asserts that "the expenses sought by [claimant] for assisting [his wife] in her research were unnecessary."

Claimant's supervisor asserts that he made a determination that claimant's travel was for official business. He authorized claimant's travel to commence on July 14 to allow claimant sufficient time to conclude the presentation of his conference presentation while on travel status, away from other responsibilities of his position, prior to the beginning of the conference. Claimant's itinerary also gave him time to take part in the other government-sponsored research with his wife. The supervisor asserts further that even though claimant's wife did not receive funding from the USGS for her travel, this did not mean that the research she and claimant performed was unnecessary or not mission-related. According to the supervisor, he perceived this collaborative research as "receiving the benefit of two government employees traveling for the price of one."

After claimant received the initial denial of reimbursement, his supervisor amended claimant's travel orders to reflect that the travel was from "Anchorage to Oahu and then to Kona/Kailu." His supervisor states that based upon the tasks to be performed by claimant on Oahu, the original travel orders should have included an authorization for the stay in Oahu, and the amended travel orders reflect his original intent. The agency continues to deny reimbursement to claimant for the costs of lodging and M&IE incurred on Oahu.

Discussion

¹ Claimant seeks \$739.28. It appears that this is the result of a mathematical error on his travel voucher.

The agency bases its denial of reimbursement of expenses incurred by claimant on Oahu on Federal Travel Regulation (FTR) 301.2-4, 41 CFR 301.2-4 (2003), which reads:

For what expenses am I responsible?

You are responsible for expenses over the reimbursement limits established in this chapter. Your agency will not pay for excess costs resulting from circuitous routes, delays, or luxury accommodations or services unnecessary or unjustified in the performance of official business.

Under the circumstances of this case, we find that the above regulation does not prohibit reimbursement of the expenses claimed. By statute, agencies should reimburse their employees for actual and necessary costs incurred to travel on official business. 5 U.S.C. § 5702 (2000). An "agency may pay only those [travel] expenses [which are] essential to the transaction of official business." 41 CFR 301-2.2. The determination of what constitutes "official business" is a management prerogative. Wayne R. Smith, GSBCA 16193-RELO, 04-2 BCA ¶ 32,721. A specific determination will not be overturned unless it is found to be arbitrary, capricious, or an abuse of discretion. Carl A. Willecke, GSBCA 16083-TRAV, 03-2 BCA ¶ 32,352. The FTR further requires that the employee generally have "written or electronic authorization prior to incurring any travel expense." 41 CFR 301-2.1.

Claimant's supervisor made a determination that claimant was to commence travel on July 14, 2004, to Oahu to perform tasks that he determined to be "official business." Claimant received written travel orders authorizing him to commence travel on that date. We do not find the supervisor's determination that these tasks constituted "official business" to be arbitrary, capricious, or an abuse of discretion. While the agency asserts that a different determination may have been better policy -- we express no opinion on this matter -- the one the supervisor made was rational, so we will not disturb it. Carl A. Willecke.

Claimant's original travel orders contained written authorization to travel on official business for the four-day period at issue. Once an agency has authorized travel or relocation allowances which it had the discretion to grant, and the employee incurs expenses in reliance on the authorization, the agency must reimburse the employee for those expenses. Linda M. Conaway, GSBCA 15342-TRAV, 00-2 BCA ¶ 31,333; Elizabeth A. Hair, GSBCA 14285-RELO, 98-2 BCA ¶ 29,914. When the agency first denied reimbursement of claimant's expenses incurred on Oahu, his supervisor amended the travel orders to specifically authorize travel to Oahu, to reflect his initial intent. Travel orders may be properly amended to correct an error or to include a provision that was definitely intended to be included. Thelma H. Harris, GSBCA 16303-RELO, 04-1 BCA ¶ 32,540.

Claimant is not seeking costs over the reimbursement limits. He did not take a circuitous route, delay his travel, or seek additional costs resulting from luxury accommodations. Claimant is entitled to reimbursement of the costs claimed.

Decision

The claim is granted. Claimant is entitled to be reimbursed \$735.28.

ALLAN H. GOODMAN
Board Judge