



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 12, 2007

CBCA 712-TRAV

In the Matter of SUSAN P. VIGIL

Susan P. Vigil, Colorado Springs, CO, Claimant.

Rick Miller, Civilian Travel and Overseas Allowances Policy Manager, Force Sustainment Division, Department of the Air Force, Washington, DC, appearing for Department of the Air Force.

VERGILIO, Board Judge.

On April 16, 2007, the Board received from Susan P. Vigil (claimant) a request for reimbursement of \$704.23, associated with her purchase of a one-way, first-class airline ticket for a temporary duty assignment. Claimant, a civilian employee of the Department of the Air Force, had not received approval for first-class travel. She seeks payment for costs in excess of coach-class ticket costs and fees.

Reimbursement of costs for first-class travel, in excess of imputed coach-class travel costs, must be denied here. This employee failed to obtain written approval for first-class travel within seven days of travel completion. Moreover, authorization for first-class travel would be contrary to regulations in that the record does not demonstrate that coach-class seats were not reasonably available within the five-week period between authorization and travel and the employee was not engaged in a mission that qualified for first-class accommodations. This traveler, who mistakenly assumed that someone else would have secured her reservations, cannot be deemed a prudent or reasonable traveler for whom the Government should reimburse additional costs incurred when ticket purchase occurred on the day of travel.

Background

On August 11, 2006, as a Department of Defense civilian employee, Ms. Vigil requested and received authorization for temporary duty travel. The authorization indicates

travel originating in Colorado Springs, Colorado, to Malmstrom Air Force Base, Montana, with a return to the point of origin. The stated transportation mode is commercial air, with an estimated cost of \$325.02 for travel. The “proceed date” (start date) of travel is September 17, 2006. The purpose of the travel is stated as “site visit” for a staff assistance visit to assess a human resources program.

This travel was originally scheduled for the prior week in September, for which Ms. Vigil had airline reservations. She was to travel with others from her area as a “team.” When the date of the travel changed by one week, Ms. Vigil believed that someone had altered her travel arrangements. In her words, she misinterpreted team instructions and thought travel changes were going to be made en masse by another member of the team. She arrived at the Colorado Springs airport on the morning of September 17 and was informed that she lacked an airline reservation. She had arrived without a reservation, without an e-ticket, and without a confirmation number. The employee learned that only a first-class ticket was available to reach her destination that day. She purchased a first-class ticket for \$1037.10. Apparently, she was reimbursed \$332.77, the cost of a coach seat, plus taxes and fees, that had been available with a timely booking. She here seeks \$704.23, approximately the difference ($\$1037.10 - \$332.77 = \$704.33$).

With her request to this Board, Ms. Vigil submitted an “endorsement” for payment (from a colonel in the Air Force (a Director of Manpower, Personnel and Services)) and a statement of the circumstances relating to the travel (from a resource advisor and team member who was part of the team traveling to Montana).

Discussion

The Federal Travel Regulation (FTR), applicable to civilian agency employees, identifies obligations of the employee traveler and the Government regarding reimbursement of travel expenses. 41 CFR ch. 301 (2006) (FTR ch. 301). In particular, the regulation specifies that an agency “may pay only those expenses essential to the transaction of official business, which include (a) Transportation expenses as provided in Part 301-10 of this chapter[.]” FTR 301-2.2. Further, as to the standard of care an employee is to exercise, the regulation states: “You must exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.” FTR 301-2.3. The regulation also dictates that an employee must have a specific authorization or prior approval for use of first-class service on common carrier transportation. FTR 301-2.5(a). Moreover, the regulation explains that an employee, who does not travel by the method of transportation required by regulation or selected by the agency, is liable for any additional expenses incurred. FTR 301-10.6.

An employee is required to use contract carriers, when available, and use coach class service, unless business-class or first-class service is authorized. FTR 301-10.5, -10.122. An employee may use first-class airline accommodations only when the agency specifically authorizes and approves first-class travel for one of four reasons. Because the record does not suggest the applicability of two itemized reasons (in order to accommodate a disability or other special need, or because of exceptional security circumstances), the potential applicability of the remaining two is here addressed. The first basis is that “[n]o coach or business-class accommodations are reasonably available. ‘Reasonably available’ means available on an airline that is scheduled to leave within 24 hours of your proposed departure time, or scheduled to arrive within 24 hours of your proposed arrival time.” The final basis is “[w]hen required because of agency mission.” FTR 301-10.123.

The requirements and guidance of the FTR are refined and explained in the Joint Travel Regulations (JTR)--regulations relative to travel and transportation allowances of Department of Defense civilian personnel. For example, the JTR specify: “A traveler must exercise the same care and regard for incurring expenses to be paid by the Government as would a prudent person traveling at personal expense.” JTR C1058-1. As to general travel policy, the regulations state:

Requests for premium-class accommodations must be made and authorized in advance of the actual travel unless extenuating circumstances or emergency situations make advance authorization impossible. If extenuating circumstances or emergency situations prevent advance authorization, the traveler must obtain written approval from the appropriate authority within 7 days of travel completion. If premium-class travel is not approved after-the-fact, the traveler is responsible for the cost difference between premium-class transportation used and the transportation class for which the traveler was eligible.

JTR C2000-A.2.a.

Regarding commercial air transportation, the JTR state: “Command and travelers should determine travel requirements in sufficient time to reserve and use coach-class accommodations.” JTR C2204-B.1.b. Also, “First-class airline accommodations may be used at Government expense only as permitted in par. C2204-B3.” JTR C2204-B.1.c. In addition to establishing the appropriate level of authority for permitting first-class travel reimbursement (here no authority approved the first-class travel), the identified provision of the JTR explains:

Lower Class Airline Accommodations Are Not Reasonably Available.

“Reasonably available” means that accommodations, other than first-class, are available on an airline scheduled to leave within 24 hours before the traveler’s proposed departure time, or is scheduled to arrive up to 24 hours before the travel’s proposed arrival time. . . . When this paragraph is used to justify premium-class accommodations, the AO must cause the travel authorization to be clearly annotated as to when the TDY travel was identified, when travel reservations were made, and the cost difference between coach-class and first-class accommodations.

JTR C2204-B.3.a. (The JTR define AO, authorizing/order-issuing official, as the “official who directs travel and has responsibility for the funding.” JTR app. A1.) Additionally, the provision explains:

When required by the mission. This criterion is exclusively for use in connection with Federal advisory committees, special high-level invited guests, and U.S. defense attachés accompanying ministers of foreign governments traveling to the United States to consult with members of the Federal Government. For DoD, the approval authority is the Director, Administration and Management, Office of the Secretary of Defense, or as delegated by the Director. Business-class should be used if available.

JTR C2204-B.3.d.

The regulations dictate the necessary analysis. This traveler lacked authorization to travel by first-class accommodations. Because the employee did not request such authorization within seven days of travel completion, here the request must be denied.

Had the employee requested authorization, it should have been denied. Only two of the reasons for first-class travel are potentially available based upon the existing record. The record does not demonstrate that lower class accommodations were not reasonably available. Although on the day of travel a coach-class ticket was not available, the employee arrived at the airport without a ticket or confirmed reservation. The travel authorization was issued in excess of five weeks prior to travel. Under the regulations, it was neither reasonable nor prudent to wait until the day of travel to obtain a reservation, or to take no action to ensure that necessary arrangements had been made in the days and weeks prior to official travel. Separately, first-class travel was not “required by the mission.” The travel associated with a staff assistance visit does not qualify under the exclusive categories of the JTR, as the visit is not equivalent to that of a federal advisory committee or other delegation.

The Government properly denied the claim for reimbursement of additional travel expenses.

JOSEPH A. VERGILIO
Board Judge