



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 20, 2007

CBCA 749-TRAV

In the Matter of STEVEN RHUDE & MICHAEL DUNN

Steven Rhude and Michael Dunn, APO Area Europe, Claimants.

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.

WALTERS, Board Judge.

Claimants, Steven Rhude and Michael Dunn, are civilian employees of the Department of the Air Force at the Warrior Preparation Center, Ramstein Air Base, Germany. Both had been assigned temporary duty (TDY) from January 17, 2007, through January 30, 2007, at Camp Aachen, Grafenwoehr, Germany. Both sought and were denied compensation for meals per diem at the proportional meals rate while on TDY and, by their memorandum to the Board dated April 25, 2007 (hereinafter the "claim"), have requested that the Board review the Air Force decision.

For the reasons stated below, the decision is affirmed.

Background

Claimants relate that their TDY was to support Exercise SHARP FOCUS 07, a computer-assisted command post joint task force (JTF) level exercise, as joint exercise control group members. All food and lodging during the exercise was provided to military and civilian participants by the Government. It appears that, for Messrs. Rhude and Dunn, billeting was done off base at a local hotel, under government contract. The claimants were provided breakfasts and dinners on post at the "contract chow hall" and for lunches were furnished "meals ready to eat" (MREs). Because all lodging and meals were provided by the Government, claimants were given only \$3.50 per day, the outside the continental United States (OCONUS) per diem rate for incidental expenses, as a per diem allowance.

Subsequent to their TDY, claimants sought approval from the Warrior Preparation Center budget officer for revised vouchers allowing them reimbursement for their lunches at the proportional rate, urging that MREs “do not count as ‘meals provided.’” Approval for the revised vouchers was withheld absent a certification letter from the office funding the TDY, and the representative of that office, Mr. Jerry Montgomery, in an e-mail message, refused to furnish that approval. He based his decision on his reading of the Joint Travel Regulations (JTR), applicable to federal civilian employees of military services:

Per the paragraph below from the JTR for civilians [a definition contained in JTR Appendix A, part 1], it appears that proportional per diem is not required. Since your quarters were provided under contract by USAREUR and you were not required to pay for your meals, it is our opinion that proportional per diem would not be appropriate.

FIELD DUTY. All duty serving with troops participating in maneuvers, war games, field exercises, or similar types of operations during which:

1. The individual is subsisted in a Government mess or with an organization drawing field rations, and is provided Government quarters or is quartered in accommodations normally associated with field exercises, or

NOTE: Everything ordinarily covered by per diem is furnished without charge, except that members are required to pay for rations at the discounted meal rate (basic meal rate).

2. Students are participating in survival training, forage for subsistence, and improvise shelter.

NOTE: Individuals furnished quarters and subsistence obtained by contract are performing field duty when so declared by a competent official.

Claimants take issue with the notion that their TDY at Camp Aachen can be considered and treated as Field Duty for purposes of per diem compensation. Accordingly, they urge the

Board to direct payment of the amounts in question.¹

Discussion

JTR paragraph C4554, Per Diem Rules Concerning Meals, states as to OCONUS duty that the proportional meal rate (PMR) “applies on any day when at least one, but not all three meals, are consumed in a Government mess.” JTR C4554-A.1.b(3). The JTR goes on to explain that the PMR will apply “on any day when one or two deductible meals are provided” and specifically lists “[b]ox lunches,” including “MREs,” as “not deductible.” JTR C4554-B. Claimants rely on this provision as the basis for their claim to the PMR for the days in question.

The JTR provision, however, provides for an exception to this “not deductible” classification where “MREs and/or box lunches are the *only method* of providing adequate subsistence to travelers” and then cross-references to JTR, Chapter 4, Part I, “*for travelers on TDY within a Combatant Command or Joint Task Force Area of Operations.*” JTR C4554-B. Although Claimants insist that “Camp A[a]chen is NOT field duty” and that, at Camp Aachen, there were a number of commercial eating establishments available, i.e., other methods of providing “adequate subsistence,” they do appear to acknowledge that they were on a JTF exercise, albeit one conducted in a “well-appointed exercise facility.”

When speaking of “Field Duty,” Chapter 4, Part I states that a “*Combatant Commander-/JTF-determined official may place the traveler in a field duty status if quarters and subsistence, obtained by contract, are furnished,*” and specifies the furnishing of no per diem (“None”) for “Field Duty.” Perhaps more importantly, when outlining TDY options for a Combatant Commander/JTF Commander, Chapter 4, Part I notes that “*JTF exercises must be field duty.*” JTR C4360-E. Because SHARP FOCUS 07 was a JTF exercise, the Air Force was required to place claimants in a field duty status and was therefore correct in concluding that any per diem allowance for meals would not have been appropriate.

¹ Claimants, in their claim, also “request that the Per Diem, Travel and Transportation Allowance Committee (PDTATAC) further clarify the term ‘field conditions’ so that it is no longer used as an avenue to avoid paying per diem because of exercise budget constraints.” This request, obviously, transcends this Board’s jurisdiction, as does the policy argument set forth in the Air Force Response regarding the need to apply the same rules for lodging and messing both to soldiers and Department of Defense civilian employees. Thus, neither argument will be addressed herein.

Decision

The Air Force decision is affirmed.

RICHARD C. WALTERS
Board Judge