



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 27, 2008

CBCA 1037-RELO

In the Matter of HERBERT THOMAS

Herbert Thomas, Landover, MD, Claimant.

JoAnne Rountree, Supervisor, Chief, PCS Travel Accounting, Financial Services Center, Department of Veterans Affairs, Austin, TX, appearing for Department of Veterans Affairs.

VERGILIO, Board Judge.

On January 16, 2008, the Board received a claim from Herbert Thomas, who seeks \$2390.36 in temporary quarters subsistence expenses (TQSE) denied by the Department of Veterans Affairs (Government), regarding his change of permanent duty station within the continental United States. Although the agency had reimbursed the claimant for the first thirty-day period of claimed expenses, it denied the here-disputed reimbursement for the second thirty-day period based upon its inquiry into the receipts and incomplete forms for reimbursement.

On February 15, 2008, the Board received a second claim from the claimant, this disputing the agency's determination to collect amounts advanced and paid to the claimant for the first thirty-day period. The agency took this action because upon audit it concluded that the receipts in support of the TQSE reimbursement for the first thirty-day period failed to substantiate reimbursement.

The claimant disputes the determinations. He continues to maintain that he was in temporary quarters for the entire sixty-day period. He contends that for his lodging he incurred and paid \$1850 in cash for each thirty-day period and that his claims are supported by written receipts he obtained from a private party.

The agency reasonably denied the claimed TQSE reimbursement and properly seeks to recover amounts paid to the claimant. Based upon the record as a whole, including the

receipts, the supporting documentation supplied by the claimant, the results of inquiries by or on behalf of the Government, and the submissions here, the agency's determinations are well supported. The claimant has not demonstrated credibly that he was in temporary quarters or that he actually paid the monthly amounts for rent; thus, there is no basis to alter the determinations of the agency.

Background

As a civilian employee of the Government, the claimant received orders for a permanent change of station within the continental United States. The Government authorized the claimant to be reimbursed on an actual basis for a maximum of sixty days of TQSE associated with the change of duty stations. The written authorization is clear and explicit.

For the first thirty-day period, the claimant submitted a request for reimbursement of TQSE. The support included a generic receipt for the payment of \$1850 in cash for his lodging expense. The agency reimbursed the claimant a total of \$3899 (by an advance and by a payment) for the lodging and other expenses incurred while in temporary quarters.

The claimant sought reimbursement for the second thirty-day period. For this second period, the Government questioned the submissions by the claimant. The Government sought and obtained additional information from the claimant. The claimant submitted a generic receipt regarding the payment of \$1850 in cash for lodging. Handwriting on the receipt indicates that the amount was received "for rent" on a "month to month (special)" basis for the period of July 12 to August 12, 2007. As indicated by a signature and handwriting, the amount was received by Pat Shelby of a rental management company. The claimant also submitted a letter on the letterhead of the rental management company, with a date of September 14, 2007, signed by Pat Shelby, Property Manager. The letter states that the claimant had entered into a special housing agreement with the company from June 11 to August 12, 2007, at \$1850 per month. Further, it specifies that the claimant "did not sign a rental agreement during this period. He has entered into a one-year lease with us." The claimant submitted a copy of his one-year lease with the rental management company. That lease was entered into on October 5, 2007. The lease appears not to have existed as of the date of the letter of September 14, submitted in support of the claim.

The Government, through a contractor, contacted the rental management company identified on the receipt and by the letter dated September 14, 2007. It learned that Pat Shelby was not an employee of the company. The claimant had not submitted a credible receipt, and had not provided a copy of a lease or other documentation or support for a basis to substantiate that the claimant was in temporary quarters for the second thirty-day period.

The Government denied reimbursement of the related TSQE. Thereafter, because of what it deemed to be invalid documentation for expenses related to the first thirty-day period (that is, the lack of a credible receipt or other sufficient documentation or support), the Government determined that the claimant is obligated to reimburse the Government for the related amounts advanced and received.

Discussion

Under the Federal Travel Regulation (FTR), applicable to civilian agency employees, if an agency opts to authorize reimbursement of TQSE, the agency will reimburse an employee for TQSE under the actual expense method unless it permits the “fixed amount” reimbursement method as an alternative and the employee selects that option. 41 CFR 302-3.101, -6.6, -6.11 (2007) (FTR 302-3.101, 6.6, -6.11); *Diane F. Stallings*, GSBICA 16793-RELO, 06-1 BCA ¶ 33,201. The Government here states that it did not offer the claimant a choice between fixed and actual TQSE reimbursement, as the particular organization has determined not to allow reimbursement on a fixed basis.

In light of the policy of the particular organization not to offer an option and of the specific travel authorization issued, the preference of the claimant is not relevant, although raised here as a matter of concern to the claimant. Neither statute nor regulation compels an agency to afford a claimant a choice of methodologies for reimbursement, particularly when the determination to permit TQSE reimbursement (or not) falls within the discretionary authority of an agency. FTR 302-6.6, 302-6.300 to -6.305. The claimant contends that he was misinformed by various employees and agents of the Government administering the travel program. This assertion is not supported with any credible instance or example. In any event, the claimant reasonably could not have been mistaken as to which method of reimbursement was approved. The travel authorization specifies that reimbursement would be made on an actual basis for a period of up to sixty days; a fixed basis of reimbursement is limited to a maximum of thirty days. FTR 302-6.200.

The claimant notes an inconsistency between the initial approval of reimbursement for the first thirty days of TQSE and the denial of reimbursements for the second thirty days of TQSE. The Government’s observations and knowledge regarding the claimant’s submissions and actions were not the same in each instance. The lodging receipts have been discredited; they no longer represent valid, credible receipts. The claimant has not satisfied a basic requirement to submit receipts in support of all lodging expenses. FTR 302-6.12 (which incorporates FTR 301-11.25, -11.306, and -52.4(b)). Although the written and signed documents do contain the word receipt, the signing individual was not employed at the stated company. Thus, one cannot conclude from the documents that the claimant paid either stated amount or that the claimant was occupying temporary quarters for each thirty-day period at

issue. The claimant has not otherwise substantiated his position. In particular, although he offered in support a letter dated September 14, 2007, not only is the letter signed by the same individual that did not work for the company as represented, but also, the letter references a lease that had not yet come into existence. The Board concludes that the Government reasonably determined that the claimant has not established that he occupied temporary quarters and that the claimant is not entitled to retain payments received or be compensated for TQSE for the sixty days in question.

The claimant maintains that he paid fees to owners of corporate housing as demonstrated by written receipts, and states that the owners misrepresented themselves as being associated with a particular property management company. The Government cannot be faulted for looking behind the alleged payments of \$1850, in cash, when no written lease represents the transaction concerning property, and the receipt is an informal, non-specific document. This claimant lacks credible receipts and has not established a basis that substantiates his claim that he was in temporary quarters for the periods in question. The underpinnings essential to reimbursement are absent from this record.

In his submissions, the claimant raises undue financial hardship arising from the non-reimbursement and the belief that the denial of reimbursement is unfair. The Board finds no unfairness in the actions of the Government, which help to ensure the integrity of the relocation process and the distribution of funds. The claimant received authorization to be reimbursed on an actual, not a fixed method, basis. The Government reasonably concluded that the information submitted does not support reimbursement and requires repayment of all amounts advanced or paid. A prudent traveler would not enter into an arm's length transaction with an unknown individual and pay \$1850 in cash to reside in an apartment without a lease.

The Board upholds the determinations of the Government to disallow reimbursement for any of the TQSE claimed for the entire sixty-day period, and to recover amounts advanced or paid in connection therewith.

JOSEPH A. VERGILIO
Board Judge