



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 10, 2009

CBCA 1314-RELO

In the Matter of DAMON PFALMER

Damon Pfalmer, Irvine, CA, Claimant.

William E. Wiggins, Jr., Working Capital Fund Activity Manager, Employee Relocation Resource Center, Environmental Protection Agency, Cincinnati, OH, appearing for Environmental Protection Agency.¹

McCANN, Board Judge.

Claimant is a civilian employee of the Transportation Security Agency (TSA). He has asked this board to review the agency's denial of reimbursement of certain expenses he incurred during a permanent change of duty station (PCS) move.

Factual Background

The TSA transferred Damon Pfalmer from his permanent duty station in Artesia, New Mexico, to a new permanent duty station in Los Angeles, California. Mr. Pfalmer went on an authorized househunting trip to find a place to live at his new duty station. The airfare to Los Angeles from the airport nearest his old duty station, located in Roswell, New Mexico, is very expensive. In fact, it is much cheaper to fly in and out of the Colorado Springs, Colorado, airport, which is over 500 miles from Artesia, than it is to fly in and out of the Roswell, New Mexico, airport. This is true even taking into account the mileage cost to and

¹ The Environmental Protection Agency (EPA) Employee Relocation Resource Center (ERRC) specializes in relocation services. The EPA and the TSA entered into an interagency agreement that allowed the ERRC to fully manage the TSA relocation program.

from the airport in Colorado Springs. No other airport was cheaper to fly in and out of than the Colorado Springs airport.

Pursuant to his permanent change of station (PCS) orders, Mr. Pfalmer was authorized temporary quarters subsistence expenses (TQSE) for himself and his family, either at his old or new duty station, for his househunting trip. Mr. Pfalmer, with the consent of the Environmental Protection Agency's Employee Relocation Resource Center, acting for the TSA, agreed to drive the 500 miles plus to and from the Colorado Springs airport for his househunting trip. Mr. Pfalmer temporarily housed his wife and two small children, ages three and five, in Colorado Springs with relatives instead of housing them in Artesia or in Los Angeles. It was less expensive for the TSA for Mr. Pfalmer's family to stay with relatives in Colorado Springs than it would have been for them to stay in either Artesia or Los Angeles.

In his request for reimbursement for his househunting trip, Mr. Pfalmer claimed miscellaneous and incidental expenses (M&IE) in the amount of \$549.44 for his family while they stayed in Colorado Springs. He claimed nothing for the family's lodging. The EPA denied his claim for \$594.44 on the sole grounds that Mr. Pfalmer and his family did not stay within reasonable proximity of his old or new duty station. The EPA acknowledges that the family had to stay in temporary quarters while Mr. Pfalmer was on the househunting trip

Discussion

The personnel management system of the Federal Aviation Administration applies to employees of the TSA. 49 U.S.C. § 114(n) (2006). The following sections of the Federal Aviation Administration Travel Policy (FAATP) apply.

§ 302-2.6 **What standard must I apply in incurring relocation expenses?**

You must exercise the same care in incurring expenses that a prudent person would exercise if the person was moving at personal expense.

§ 302-22.1 **What is the purpose of the TQSE allowance?**

The TQSE allowance is intended to reimburse an employee reasonably and equitably for subsistence expenses incurred when it is necessary to occupy temporary quarters.

§ 302-22.7 **Where may I/we occupy temporary quarters at Government expense?**

You and/or your immediate family may occupy temporary quarters at Government expense within reasonable proximity of your old and/or new official stations. Neither you nor your immediate family may be reimbursed for occupying temporary quarters at any other location, unless justified by special circumstances that are reasonably related to your transfer.

§ 302-22.18 **Am I eligible for TQSE if I stay with family or friends?**

No. If you stay with family or friends you are not eligible for reimbursement for lodging expenses. You may be eligible for meals and incidentals.

Section 302-22.7 allows TQSE if within reasonable proximity of the employee's old or new duty station. Clearly, Colorado Springs, being 500 miles from Artesia and more than 500 miles from Los Angeles, does not fall into this category. However, it is equally clear that the circumstances present here constitute special circumstances that are reasonably related to the employee's transfer that allow Mr. Pfalmer and his family to occupy temporary quarters in Colorado Springs.

Unquestionably, it is more cost effective for the TSA for Mr. Pfalmer's family to stay for free in Colorado Springs than it is for him to charge for occupying hotel space near his new or old duty station. This is even more true if we consider that the cost of flying in and out of Colorado Springs, even when mileage to and from the airport is factored in, is substantially less than flying in and out of Roswell or any other airport. Thus, undoubtedly, by having his family stay in Colorado Springs, Mr. Pfalmer saved the Government a significant amount of money. This is precisely the kind of special circumstance related to the transfer that justifies occupying temporary quarters outside the proximity of the old and new duty stations. Here Mr. Pfalmer is only asking for miscellaneous and incidental expenses in the amount of \$549.44, an amount not questioned by the TSA. The TSA does not dispute that if Mr. Pfalmer's family is entitled to TQSE in Colorado Springs he is entitled to MI&E in the amount of \$549.44. Since Mr. Pfalmer is entitled under the FAATP to TQSE for his family in Colorado Springs, he is entitled to his claimed \$549.44 in MI&E.

Decision

The claim is granted.

R. ANTHONY McCANN
Board Judge