



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 25, 2010

CBCA 1788-TRAV

In the Matter of PATRICK MANGAN

Patrick Mangan, Denver, CO, Claimant.

Deborah Nicholson, Manager, Finance and Accounting Division, Bureau of Reclamation, Denver, CO, appearing for Department of the Interior.

DANIELS, Board Judge (Chairman).

The Department of the Interior's Bureau of Reclamation (BOR), pursuant to 31 U.S.C. § 3529 (2006), requests a decision regarding the allocation of travel costs between the agency and one of its employees, Patrick Mangan, for a trip the employee took to Brazil in May 2009.

BOR directed Mr. Mangan to travel to Brasilia, Brazil, to attend an international conference. He asked and was granted permission to combine this trip with a period of annual leave. He planned, during the period of leave, to travel within Brazil. BOR wants to know how to divide the travel costs between those incurred for official business and those incurred for personal reasons. The agency acknowledges that it is responsible for the first of these groups of costs.

Mr. Mangan's travels -- all by air -- began at his permanent duty station, Denver, Colorado. He traveled from Denver to Brasilia with a stopover in Rio de Janeiro, Brazil. After the conference ended, he traveled from Brasilia to Cuiabá, Brazil. Once his leave was concluded, he returned to Denver from Cuiabá, flying through São Paulo, Brazil.

The employee and his supervisor have agreed on who should pay for some of the originally disputed items. We gather, however, that they continue to disagree as to the following:

- some of the cost of the airfare;
- the cost of lodging, per diem allowance, and miscellaneous expenses during the one-day stopover in Rio de Janeiro;
- twenty dollars Mr. Mangan paid to a hotel concierge in Brasilia; and
- the cost of lodging and per diem allowance for Mr. Mangan's last night in Cuiabá, and the fare for the taxi from his hotel to the airport.

Airfare

The principal item at issue is the cost of the airfare. Two other BOR employees also attended the conference in Brasilia, and Mr. Mangan's supervisor notes that the airfare for each of them was less than half of Mr. Mangan's airfare. The supervisor attributes the difference to Mr. Mangan's having requested the agency's designated travel agent to route him through Rio de Janeiro, rather than purchasing a round-trip ticket. Mr. Mangan explains that he made no such request and that the travel agent selected the routing. He also explains that the travel agent told him the flights selected were the least expensive flights available at the time of booking.

As between the employee's statement and the supervisor's supposition, we trust that the statement is correct: the routing through Rio de Janeiro was chosen by the agency's travel agent, not the employee. There are no commercial flights direct from Denver to Brasilia, and as Mr. Mangan has documented, many trips between these two cities are routed through Rio de Janeiro. Other trips are routed through São Paulo. Also as Mr. Mangan has documented, the cost of these trips varies wildly, being dependent on numerous factors including the dates on which tickets are purchased and the length of time between booking and flying; whether a trip is routed through Rio or São Paulo seems to have no impact on pricing. While Mr. Mangan's ticket was far from the least expensive of possible fares, it was less than the most expensive. BOR has provided no evidence that a round-trip ticket, with a return from Brasilia when the conference ended rather than Cuiabá after the period of leave, would have been less expensive than the tickets purchased by this employee at the time of purchase.

We conclude that Mr. Mangan flew to the conference over a usually traveled route. We also know that this route was selected for him by BOR's designated agent. We accord

to such an agent's choice of tickets a rebuttable presumption that, as alleged by the agent in this case, that choice was at the lowest available cost to the Government. Although other BOR employees may have flown to Brasilia at much lower cost, we have no information as to the times at which their tickets were purchased or the possible alternative ticketing for Mr. Mangan at the time his ticket was purchased. Thus, we cannot say that the price for Mr. Mangan's ticket was excessive. Since this leg of his trip was entirely to attend the conference on official government business, the agency should pay for all of its cost.

Mr. Mangan did not fly home over a usually traveled route from Brasilia to Denver, however. Instead, he flew from Cuiabá. Under the Federal Travel Regulation (FTR), when an employee, for personal convenience, travels by a route other than one that is usually traveled, his "reimbursement will be limited to the cost of travel by a direct route." 41 CFR 301-10.8 (2009). Thus, for the flight back to Denver, Mr. Mangan should be reimbursed for the cost he incurred by traveling from Cuiabá, limited to the cost he would have incurred in traveling from Brasilia. Unfortunately, neither the employee nor the agency has provided us with the latter figure. Mr. Mangan has shown that the cost of his flight from Cuiabá to São Paulo was less than the cost of a flight at the same time from Brasilia to São Paulo. Although this information does not explain whether a Brasilia-to-Denver routing would have been less expensive than a Cuiabá-to-Denver routing, it is the most helpful data we have. If the agency can demonstrate that a ticket from Brasilia to Denver, purchased at the time Mr. Mangan's tickets were bought and for the date the conference ended, would have been less than the cost of his trip home, it should limit reimbursement to the cost of the Brasilia-to-Denver trip. If the agency cannot make this demonstration, it should reimburse the employee for the entire cost of his flights. The fact that Mr. Mangan flew home after the conference was over does not negate his right to receive reimbursement, as the supervisor surmises. He was flying on government business after completing authorized leave, and his travel orders envisioned him returning when he did.

Rest stop

Under the FTR, an agency may authorize a rest period for an employee on long-duration travel. Section 301-11.20 of the FTR provides:

(a) Your [an employee's] agency may authorize a rest period not in excess of 24 hours at either an intermediate point or at your destination if:

(1) Either your origin or destination point is OCONUS [outside the continental United States];

- (2) Your scheduled flight time, including stopovers, exceeds 14 hours;
- (3) Travel is by a direct or usually traveled route; and
- (4) Travel is by coach-class.

(b) When a rest stop is authorized the applicable per diem rate is the rate for the rest stop location.

41 CFR 301-11.20.

Clearly, Mr. Mangan meets all of the requirements of subsection (a). The destination of his trip, Brasilia, is outside the continental United States; his scheduled flight time, including stopovers, was three hours more than the fourteen specified in the regulation; he traveled by a usually traveled route; and his travel was by coach-class. We note, however, that the regulation provides that BOR “may authorize,” not “must authorize,” a rest stop in these circumstances. One of our predecessors in resolving federal employee travel expense claims, the General Accounting Office, appropriately held that the language of the regulation gives an agency discretion whether to authorize a rest stop or not. *Jay D. Cronk*, B-251142 (Apr. 21, 1993); *Kathleen Pinette*, 72 Comp. Gen. 3 (1992). Mr. Mangan’s travel orders do not mention a rest stop; they neither authorize it nor deny it. BOR should now use its discretion to decide whether to allow the rest stop or not. While it appears reasonable to us for an agency to allow an employee to break a seventeen-hour trip into two parts, we cannot command BOR to do so. If the agency agrees to authorize the stop, it should, pursuant to subsection (b) of the regulation, pay for Mr. Mangan’s lodging and per diem allowance at the rate for the reasonably-selected rest stop of Rio de Janeiro. We do not have any information as to the reasonableness of the baggage handling fees Mr. Mangan incurred in Rio de Janeiro and therefore do not offer any advice as to whether BOR should reimburse him for those fees.

Payment to hotel concierge

While at the conference in Brasilia, Mr. Mangan faced a predicament: the hotel where he was lodging, and for which he had room reservations for the remainder of his stay there, announced that it had overbooked its rooms and he would have to leave. The employee asserts, without contradiction, that lodging in the city was scarce at the time and that because he does not speak Portuguese, he had great difficulty in finding lodging elsewhere. For \$20, the concierge at the hotel where he had been staying found him a room at another hotel. We

consider this payment for a service, as Mr. Mangan did, a reimbursable miscellaneous expense of travel. *See* 41 CFR 301-12.1.

Last night's expenses

To arrive on time for his flight from Cuiabá to São Paulo, Mr. Mangan had to spend his final night in Brazil at a Cuiabá hotel and take a taxi from that hotel to the airport. The employee asks that the agency reimburse him for the cost of lodging, a per diem allowance, and the taxi fare, maintaining that these costs were all a necessary predicate to his flight home. We disagree. None of these costs would have had to be incurred if Mr. Mangan had left Brasilia once the conference was over and flown home from there. The taxi fare is also not reimbursable because, as pointed out by the supervisor, the agency has already agreed to reimburse the employee for the taxi fare he incurred to travel from his Brasilia hotel to the Brasilia airport when he left Brasilia for Cuiabá. All of the costs in question are properly considered to have been incurred by the employee as a result of his decision to take annual leave before heading back to Denver.

STEPHEN M. DANIELS
Board Judge