



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 11, 2012

CBCA 2799-TRAV

In the Matter of CRAIG A. BERGQUIST

Craig A. Bergquist, Huntsville, AL, Claimant.

Sheila Melton, Director, Travel Functional Area, Defense Finance and Accounting Service, Department of Defense, Indianapolis, IN, appearing for Department of Defense.

STEEL, Board Judge.

Craig A. Bergquist, a civilian employee of the United States Army, submits his claim for reimbursement in the amount of \$8260 for long term temporary duty (TDY) benefits which he believes accrued to him while he was working in Huntsville, Alabama, from January to April of 2010. The Defense Finance and Accounting Service (DFAS) denied his claim on the grounds that his permanent duty station (PDS) as of June 21, 2009, was Huntsville, and therefore he was not entitled to any TDY benefits while on duty there in 2010.

Initially, Mr. Bergquist's permanent duty station was Redondo Beach, California. At some point before February 2009, he was assigned to temporary duty in Huntsville. In February 2009, according to a notification of personnel action (SF-50) issued by the Army, Mr. Bergquist was temporarily reassigned to another position in Huntsville. The record indicates that in June 2009 he was permanently reassigned to a position in Huntsville.

On January 18, 2010, the Army issued permanent change of station (PCS) orders for Mr. Bergquist, transferring him from Redondo Beach to Huntsville, with a reporting date of April 2, 2010. The orders provided for travel of Mr. Bergquist from Redondo Beach to Huntsville and transportation of his household goods between the two cities. Mr. Bergquist

asked that his household goods be picked up on January 28 and delivered in Huntsville on February 16; he later asked that the goods be stored temporarily for thirty days.

On September 23, 2010, however, the Army amended the January 18, PCS orders, retroactively transferring Mr. Bergquist from Redondo Beach to Huntsville in June 2009.

The record contains two orders authorizing Mr. Bergquist to receive temporary duty benefits while in Huntsville from January to April 2010. The orders are not signed by an agency official. According to the agency, Mr. Bergquist created the authorizations; according to the employee, the orders were approved by agency management.

Discussion

At issue in this case is Mr. Bergquist's request that the Army reimburse TDY expenses he incurred (hotel, meals and incidental expenses, car rental, and gas for the rented car) from January to April 2010.

The Army submits that Joint Travel Regulations (JTR) C4552-C.1.a states that TDY per diem cannot be authorized or paid within the limits of an employee's PDS. Since Huntsville was Mr. Bergquist's PDS pursuant to the June 2009 SF-50 and the retroactive September 2010 PCS order, the Army argues that TDY benefits could not be paid for the January to April 2010 time period.

Claimant argues that management had approved both 2010 TDY authorizations, and that months after the travel was completed, costs incurred, and vouchers submitted, the Army should not be permitted to retroactively amend his travel orders. In support of this position, he cites the JTR's statement that "[a]n employee must not be directed to perform official travel ... [a]t personal expense." JTR C1050-B.2. Further, he argues that JTR C1050-B.4 requires that when an employee is reassigned from one PDS to another, he should be given reasonable advance notice to prepare, which period should not be less than thirty days. By retroactively assigning him permanently in June of 2009, he was not given that notice. In addition, he states, JTR C1050-C requires that he be given notice in writing prior to reporting to the new official station, an impossibility when the new assignment is made retroactively.

But Mr. Bergquist agrees that "PCS orders should have been issued o/a 21 June 2009 based on the SF-50 Personnel Action changing the PDS from California to Alabama." He notes, however, that he could not have his HHG moved at government expense until he received PCS orders.

Neither party's analysis is satisfactory. Notwithstanding the SF-50s permanently assigning Mr. Bergquist to Huntsville from Redondo Beach, the Army appears to have considered that Mr. Bergquist was on long-term temporary duty in Huntsville until January 18, 2010. Despite the retroactive PCS transfer, the Army reimbursed Mr. Bergquist's temporary duty expenses for the time he was in Huntsville prior to January 2010, and it has waived whatever rights it may have had to recover that money. But in January 2010, the Army finally issued orders authorizing his travel and transportation of HHG, pursuant to the June 2009 SF-50.

While the situation caused by a litany of agency errors is confusing, we believe that it is best understood as follows: The Army considered that Mr. Bergquist was on long-term TDY in Huntsville until January 18, 2010. In that month, the agency officially changed his permanent duty station to Huntsville. At that point, his TDY assignment was extinguished, and thus his entitlement to TDY benefits was extinguished as well. He is not entitled to TDY benefits when he is at his permanent duty station. 41 CFR 301-11.1 (2009).

Therefore, Mr. Bergquist is entitled to TDY for January 1 to 18, 2010, but not thereafter. The agency will calculate the appropriate figure.

CANDIDA S. STEEL
Board Judge