



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 8, 2010

CBCA 1625-RELO

In the Matter of TOKEN D. BARNTHOUSE

Token D. Barnthouse, FPO Area Europe, Claimant.

George P. Bulan, Personnel Support Detachment Sigonella, Department of the Navy,
FPO Area Europe, appearing for Department of the Navy.

GOODMAN, Board Judge.

Claimant, Token D. Barnthouse, is a civilian employee of the Department of the Navy. He asks this Board to review the agency's denial of reimbursement of airfare he paid for with his personal credit card during a permanent change of station (PCS) move.

Factual Background

Claimant accomplished a PCS from Naval Base Guam to Sigonella, Italy, in July and August 2008. He asserts that while en route via air carrier, his plane tickets "became null and void" because he was not given ample time in Los Angeles International Airport (LAX) to make his connecting flight. He therefore changed his itinerary by booking an Alitalia Airlines flight from LAX to Rome for \$2442.16 and from Rome to Catania, Italy, for \$400. He incurred these charges personally. After completing his travel he requested reimbursement of these amounts from the agency. The agency reimbursed claimant \$400 for his flight from Rome to Catania because there was no American carrier that operates on this route. He was not reimbursed the cost of the flight from LAX to Rome, as the agency asserted that he was required to travel on a United States flag air carrier. He requested this Board to review the agency's denial of reimbursement of \$2442.16 for the flight to Rome.

The agency responded to claimant's request, asserting that claimant's original itinerary scheduled him to arrive at LAX at 5:00 a.m. July 30, 2008, on Continental Airlines and to connect with an American Airlines flight that was scheduled to depart LAX at 7:15 a.m. to Chicago, Illinois. The agency representative states:

My travel office contacted both airlines and confirmed over the phone that the flights in question arrived and departed on their scheduled times. This gave the [claimant] approximately two hours to get from one flight to the other. The [claimant]'s claim that the ticket was void because he did not have time to connect to the flight seems unlikely unless there are other mitigating circumstances that the [claimant] has not mentioned.

Mr. Barnthouse also stated that he saw other service members on the Alitalia flight that he was on, suggesting that other member's [sic] procured foreign flag carriers for their official military travel as well. U.S. flag carriers routinely use foreign flag carriers to transport their customers with connecting flights including military members. When the airlines and the government do this, these travelers, while using the assigned foreign flag carrier, are traveling under an American [a]irline flight number thus staying in the parameters of using an American airline.

. . . [T]he JTR [Joint Travel Regulations] [are] clear on reimbursement for airfare purchased through foreign flag carriers when traveling through the United States

Mr. Barnthouse is requesting a reimbursement of \$2842.16 for airfare from Los Angeles, CA to Catania, IT. The only proof of purchase he provided was a credit card statement from Navy Federal Credit Union showing a purchase was made from Alitalia Airlines on July 31, 2008. He has not provided an itinerary from the flight nor an itemized breakdown of what the expenses were. For all we know he purchased a first class ticket, multiple tickets, or paid pet transportation fees which are unauthorized for travel at government expense.

Claimant did not file a reply to the agency's response to his claim.

Discussion

Pursuant to the Fly America Act, 49 U.S.C. § 40118(a)(3)(B) (2006), government-financed transportation requires the use of service provided by United States flag carriers to the extent such service is available. Agencies may allow the expenditure of an

appropriation for transportation in violation of this requirement only when satisfactory proof is presented showing the necessity for the use of a foreign air carrier's transportation services. *Id.* § 40118(c); *see, e.g., James L. Landis*, GSBCA 16684-RELO, 06-1 BCA ¶ 33,225; *Maynard A. Satsky*, GSBCA 16632-RELO, 05-2 BCA ¶ 33,042; *Desiree Fray*, GSBCA 15012-TRAV, 99-2 BCA ¶ 30,485. The JTR contain the regulatory requirements with regard to the Fly America Act applied to civilian employees of the military, with regulatory exceptions to the Act specified in JTR C2204-C.2.

Claimant has not met his burden to prove his claim. His assertion that his tickets became "null and void" because of the brevity of the connection time between his flights at LAX is not supported, and he has not described any circumstances within any exceptions to the Fly America Act.

It has long been the rule that, because the requirement for use of United States flag carriers is imposed directly by statute, all persons are charged with notice of it. For this reason, and because government funds may not be used to pay for unnecessary travel by foreign air carrier, the traveler is personally liable for any cost incurred because of his or her failure to comply with the requirement. *Fray*.

Decision

The claim is denied.

ALLAN H. GOODMAN
Board Judge