



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 20, 2010

CBCA 1961-TRAV

In the Matter of W. SCOTT PARKER

W. Scott Parker, Brownstown, MI, Claimant.

Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

DRUMMOND, Board Judge.

Background

W. Scott Parker, a civilian employee of the United States Army Corps of Engineers, seeks additional compensation for costs incurred relating to his temporary duty (TDY) assignment in Sacramento, California, from June 15 through November 29, 2009. In Sacramento, Mr. Parker rented an unfurnished apartment for the duration of his assignment. He also rented furniture by the month. The furniture rental contract signed by claimant required that he either obtain third party insurance naming the furniture rental company as the payee or pay a monthly damage waiver fee. Claimant paid the damage waiver fee (identified as "damage protection"), at a rate of \$104.88 per month.

At some point, the agency determined that Mr. Parker was not entitled to his damage waiver expenses. The agency explained in an e-mail message to Mr. Parker that the "damage protection fee is considered as insurance; therefore, is not reimbursable." According to the agency's calculation, Mr. Parker had already been reimbursed \$616.14 for those expenses. On March 12, 2010, claimant repaid the \$616.14 in full.

Mr. Parker now seeks a review of the agency's determination that he was not entitled to furniture damage waiver fees while on temporary assignment. Alternatively, he believes that the agency charged him an incorrect amount and seeks a recalculation of the \$616.14 which he repaid.

Discussion

The Federal Travel Regulation (FTR), applicable to civilian federal employees, identifies obligations of the employee traveler and the Government regarding reimbursement of travel expenses. 41 CFR 301-2.9 (2009). In particular, the regulation specifies that with regard to the daily lodging cost when an employee rents on a long-term basis, an agency "may pay only those expenses essential to the transaction of official business," which include the cost of renting an unfurnished apartment and the rental cost of appropriate and necessary furniture and appliances (e.g., stove, refrigerator, chairs, tables, bed, sofa, television, or vacuum cleaner). *Id.* 301-11.15.

The requirements and guidance of the FTR are supplemented for Department of Defense (DoD) employees in DoD's Joint Travel Regulations (JTR). Regarding furniture rentals, the JTR also permits appropriate and necessary furniture rental when an employee leases an unfurnished apartment. JTR C4555-D.

Mr. Parker asserts that the damage waiver fee is an appropriate and necessary component of the rental fee. He suggests that the JTR does not explicitly limit reimbursement of expenses to rented furniture needed for unfurnished lodging and that he should, therefore, be compensated for damage waiver fees he paid as part of the rental costs. Mr. Parker asserts that he had no choice but to enter into this agreement which required payment of these fees. He further asserts that the furniture rental company, not he, benefitted from the damage protection. As support for his position, Mr. Parker cites to JTR C4555-D.3, note 1, which states:

Some rental agreements (i.e., furniture rental agreements) include options-to-buy clauses that result in the renter owning the rental item (i.e., furniture) A traveler may be reimbursed for the cost of such a rental agreement . . . while on TDY if the traveler has no other choice but to enter into such an agreement.

For its part, the agency notes that no statute or regulation authorizes a damage waiver or damage protection fee. The agency -- relying on *Anthony B. Queern*, B-247084 (Aug. 6, 1992) -- determined that this fee was not essential to the transaction of official business, as it represents an insurance fee. The agency's reliance upon *Queern* is misplaced. In *Queern*, it was determined that the purchase of renter's insurance for the protection of the employee's

personal property is not an expense that can be characterized as essential to the transaction of official business, but rather is incurred for the employee's "personal choice and for his personal benefit," and therefore not reimbursable. Here, Mr. Parker did not have a choice as to payment of the fee, nor did he receive a personal benefit from the payment, as the furniture is owned by the rental company.

Case law has recognized that in the context of a permanent change of station transfer and extended TDY assignments, rental application fees and a furniture delivery charge may be reimbursed as elements of lodging expense reimbursement. *Valerie E. Taylor*, B-257744 (Feb. 9, 1996); *Tita D. Corpuz*, B-256576 (Jan. 17, 1996). There is a parallel between these types of costs and the damage waiver fees paid by Mr. Parker. Here this fee was part of the rental cost. As the FTR and the JTR authorize reimbursement of expenses incurred to rent furniture needed for unfurnished lodging, and the damage waiver fees were a necessary part of the rental expenses Mr. Parker paid, we find that Mr. Parker is entitled to reimbursement of the furniture damage waiver fees.

Accordingly, the Board grants the claim.

JEROME M. DRUMMOND
Board Judge