



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 26, 2011

CBCA 2175-TRAV

In the Matter of BRYAN P. LONG

Bryan P. Long, FPO Area Europe, Claimant.

Robert E. Short, Office of Civilian Human Resources, Department of the Navy, Washington Navy Yard, DC, appearing for Department of the Navy.

GILMORE, Board Judge.

Bryan Long (claimant) was a civilian employee with the Department of the Navy (Navy) at Port Hueneme, California, when he accepted a position with the Navy in Naples, Italy. His permanent change of duty station was originally scheduled for July 26, 2010. He had recently purchased a home and was in the process of renovating it when he accepted the new position in Italy. This led him to accelerate his home renovation project in order to prepare the home for rental. On July 2, 2010, claimant and his wife moved into a rental unit while the renovation work was being performed. On July 11, 2010, claimant and his wife moved back into the home once the renovation work was completed. Claimant did not state in his submissions that on July 2, 2010, when he moved into a rental unit, he had vacated his residence and was awaiting a scheduled departure to Italy. Claimant's orders to move to Italy by July 26, 2010, were amended to change the date to August 26, 2010, due to delays by the State Department in processing his wife's visa.

Mr. Long and his wife traveled to Italy on or about August 26, 2010. They did not require temporary quarters prior to their departure. However, Mr. Long submitted a request for reimbursement in the amount of \$2377 for the nine nights that he and his wife stayed in a rental property while their home was being renovated. The Navy denied the reimbursement, citing Department of State Standardized Regulations (DSSR) section 241.2c,

which is the portion of DSSR 240, Foreign Travel Allowance, that provides an allowance for certain predeparture subsistence expenses. It allows expenses for “lodging, meals (including tips), laundry, cleaning and pressing expenses in temporary quarters for employee and each member of family for up to 10 days before final departure from a post in the United States to a post in a foreign area, beginning not more than 30 days after they have vacated residence quarters.” The Navy determined that there was no eligibility because claimant and his wife returned to their residence quarters before their departure.

There is no dispute that DSSR 241.2c is the regulation applicable here. We agree with the Navy that Mr. Long is not entitled to a predeparture subsistence allowance under the circumstances described here. However, while the Navy stated that the reason it denied the claim was because claimant returned to his home, the issue controlling the right to payment is not whether he returned home but whether claimant had vacated his home on July 2, 2010, with no intention to return home, and had travel arrangements at that time to travel to Italy. Board Rule 401 states that “[t]he burden is on the claimant to establish the timeliness of the claim, the liability of the agency, and the claimant’s right to payment.” 48 CFR 6104.401(c) (2010); *see Gregory A. Thessen*, CBCA 1469-RELO, 09-2 BCA ¶ 34,190, at 168,987. Claimant did not establish that he had vacated his residence on July 2, 2010, and that his rental requirements were incident to his travel arrangements. Instead, the facts show that claimant’s rental requirements were incident to completion of his home renovations.

This claim is denied.

BERYL S. GILMORE
Board Judge