



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 8, 2020

CBCA 6668-RELO

In the Matter of MICHAEL M. BOSACK

Michael M. Bosack, Claimant.

Bruce K. Skillin, Director, Human Resources Office, Headquarters, United States Forces Korea, APO Area Pacific, appearing for Department of Defense.

DRUMMOND, Board Judge.

The claimant, Michael M. Bosack, a civilian employee of Headquarters, United States Forces Korea (the agency), seeks review of the agency's refusal to pay a temporary quarters subsistence allowance (TQSA). Because the claimant's residence in Japan at the time of his hire was not at the behest of the Government or a qualifying entity, he was ineligible to receive TQSA. The agency cannot lawfully pay Mr. Bosack TQSA.

Background

In June 2019, Mr. Bosack accepted an offer of employment for a position with the agency in Korea. He transferred to Korea from Japan, where he was pursuing higher education. He was not in Japan under the Government's directions. Although his orders expressly stated and he was assured by an agency employee that he would receive TQSA, the agency later denied Mr. Bosack's TQSA claim, finding him to be ineligible. Mr. Bosack seeks review of the agency's determination.

Discussion

Statute authorizes an agency to pay "[a] temporary subsistence allowance for the reasonable cost of temporary quarters (including meals and laundry expenses) incurred by the employee and his family." 5 U.S.C. § 5923(a)(1) (2018). Federal employees assigned to their first official station outside of the continental United States (OCONUS) may qualify

for TQSA pursuant to the Department of State Regulations (DSSR). *See* 41 CFR 302-3.2 tbl. B (2019) (Federal Travel Regulation (FTR) 302-3.2 tbl. B); Joint Travel Regulations (JTR) 054205. The DSSR, in turn, authorizes “[q]uarters allowances prescribed in Chapter 100 [to be] granted to employees recruited outside the United States” if the reason for the employee’s foreign residence relates to prior employment with the United States or a qualifying entity. DSSR 031.12. Otherwise, if not recruited in the United States, or areas not here applicable, an employee is not eligible to receive TQSA. DSSR 031.12.

In applying for TQSA, Mr. Bosack stated that his residence in Japan arose from his pursuit of higher education in that country. Mr. Bosack is therefore ineligible for TQSA, despite agency suggestions to the contrary, because his residence in Japan at the time of his hire did not arise from employment with the United States or a qualifying entity under DSSR 031.12.

We note that this is the second claim brought before the Board this year by an employee erroneously promised TQSA by the United States Forces Korea. *Tae-Hoon Kim*, CBCA 6665-RELO (May 7, 2020). We recognize the financial hardship that the error has placed on Mr. Bosack, and though “we can express disappointment,” we cannot as a matter of law “right the wrong.” *Kim*.

Decision

The Board denies the claim.

Jerome M. Drummond
JEROME M. DRUMMOND
Board Judge