



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 1, 2011

CBCA 2243-RELO

In the Matter of JOSEPH V. CAPORALE

Joseph V. Caporale, Willcox, AZ, Claimant.

Debra J. Murray, Chief, Travel Section, Customs and Border Protection, Department of Homeland Security, Indianapolis, IN, appearing for Department of Homeland Security.

STERN, Board Judge.

Claimant, an employee of Customs and Border Protection (CBP), an agency of the Department of Homeland Security, was transferred by CBP from Artesia, New Mexico, to Willcox, Arizona, in May 2010. CBP authorized temporary quarters subsistence expenses (TQSE) for a period of ninety days, including extensions granted later, in connection with the transfer. Claimant elected the actual expense method of reimbursement. Claimant now seeks this Board's review of CBP's denial of his claim for reimbursement of certain expenses incurred during the period during which he was authorized to reside in temporary housing. During the pendency of this matter before the Board, the parties have resolved a number of the claims. We address only the items that remain in dispute.

The first such expense is the cost of landscaping. CBP did not reimburse claimant for \$404.70 on the basis that this was a personal expense incurred by claimant and was not necessary for temporary quarters subsistence. CBP also denied claimant's request for reimbursement of \$276.88 for hypo-allergenic bedding on the basis that claimant did not provide medical documentation to support the necessity of this purchase. Claimant sought a payment of \$90.74 for shampoo, soap, and tissues, and \$88.36 for prescriptions. CBP denied payment of both of these amounts on the basis that these expenditures were necessary

expenses regardless of the change of station and need to reside in temporary quarters. Claimant sought reimbursement of \$59.09 for totes packing containers. CBP denied payment on the basis that the containers were purchased prior to the TQSE period and were not needed as subsistence. Claimant also sought payment for various household items. CBP paid \$616.01 for some items but denied payment for \$149.09 for certain kitchen items that were beyond the amount CBP felt was reasonable reimbursement. CBP also denied payment of \$247.47 for food items. The claim for \$234.50 of this amount was denied on the basis that the payment was made for a fund-raiser. The remainder of this claim, \$12.97, was not identifiable as food. Finally, a claim for various items in the amount of \$419.95 was not paid since the receipts in support of this claim were not legible.

Discussion

The Federal Travel Regulation (FTR) provides that an agency may reimburse an employee for TQSE if the expenses are reasonable and properly documented by the employee. 41 CFR 302-6.12, -6.100 (2009). The employee generally must provide receipts for any expense in excess of \$75. *Id.* 301-11.25. The expenses must be necessary for subsistence while occupying temporary quarters. *Id.* 302-6.3. With these principles as guidance we review each of the categories of items in dispute.

We find that claimant is not entitled to be paid the costs of landscaping, hypo-allergenic bedding, and totes packing boxes. These are not items that we find to be necessary for temporary quarters subsistence. Claimant has not carried his burden of demonstrating that these expenditures were incurred as a result of his occupancy of temporary quarters. We also deny claimant's request for repayment of \$90.74 for shampoo, soap, and tissues, and \$88.36 for prescriptions for the reason that these items would be required to be purchased whether or not claimant was occupying temporary quarters. We also defer to CBP's decision to deny reimbursement for \$149.09 of kitchen items on the basis that \$616.01 had already been paid for kitchen items and that the request beyond this sum was not reasonable. Claimant has made no showing why the additional amount claimed was necessary for items needed due to the occupancy of temporary housing. We also affirm CBP's decision to deny the payment of \$234.50 for food items that were paid to a fund-raiser. Funds to support charitable organizations are not expenses necessary for temporary quarters subsistence. Claimant has made no showing as to how much of the expense went to the group and how much was paid for food items. Finally, we deny claimant's request for payment of \$12.97 and \$419.95 for various items that the agency was unable to identify either as food or because the receipts were not legible. Nothing in the regulations requires reimbursement for these expenses. Again, claimant has failed to meet his burden of proving entitlement to reimbursement of these expenses.

Claimant alleges that he was told by CBP personnel that he would be paid for certain of these items. Even assuming that claimant was given erroneous advice, we have previously held that such advice by government employees forms no basis for us to grant relief to a claimant. It is well established that the Government is not bound by the erroneous advice of its officials. Only the expenses that are authorized by statute and regulations may be reimbursed. *Kristin L. Loer*, CBCA 2155-RELO, 11-1 BCA ¶ 34,700; *Terry L. Patrick*, CBCA 1200-RELO, 08-2 BCA ¶ 33,978; *Bruce Bryant*, CBCA 901-RELO, 08-1 BCA ¶ 33,737 (2007); *Flordeliza Velasco-Walden*, CBCA 740-RELO, 07-2 BCA ¶ 33,634, and cases cited therein.

Decision

The claims are denied.

JAMES L. STERN
Board Judge