UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 27, 2012

CBCA 2855-TRAV

In the Matter of ROBERT E. ESTILL

Robert E. Estill, Houston, TX, Claimant.

Nancy J. Hutchison, Chief, Government Payables & Receivables Section, Internal Revenue Service, Department of the Treasury, Beckley, WV, appearing for Department of the Treasury.

KULLBERG, Board Judge.

Claimant, Robert E. Estill, brought this claim after his employer, the Internal Revenue Service (IRS), issued a notice of its intent to collect a debt in the amount of $1352. The IRS alleges that Mr. Estill's debt is the amount of his withholding tax allowance (WTA) that he received for long-term taxable travel expenses during 2009, and he is liable for the repayment of his WTA because he failed to file his 2009 income tax reimbursement allowance voucher on time. For the reasons stated below, the Board dismisses this matter for lack of jurisdiction because Mr. Estill is a member of a collective bargaining unit, and his remedy is determined by the collective bargaining agreement (CBA) between his union and employer.

Background

After receiving the agency report and Mr. Estill's response, the Board learned that Mr. Estill is a member of a collective bargaining unit represented by the National Treasury Employees Union (NTEU). Section 2.C of article 41 of the CBA between the IRS and NTEU sets forth a grievance procedure for employees who are part of that bargaining unit. Unless subject to exceptions set forth elsewhere in that agreement, that grievance procedure

is "the only administrative procedure available to bargaining unit employees for the processing and disposition of grievances." A grievance is defined in section 2.A.1 of the CBA as "any complaint . . . by an employee concerning any matter related to the employment of the employee." The grievance procedures in the CBA do not provide any exception related to either travel or relocation claims.

Discussion

The Civil Service Reform Act (CSRA) states that unless a CBA provides an exception to the grievance procedures in that agreement, those "procedures shall be the exclusive administrative procedures for resolving grievances within its coverage." 5 U.S.C. § 7121(a)(1) (2006). The United States Court of Appeals for the Federal Circuit has held that under the CSRA, matters resolved under the grievance procedures in a CBA will not be subject to review outside those procedures unless a specific exception is set forth in that agreement. *See Dunklebarger v. Merit Systems Protection Board*, 130 F.3d 1476, 1478 (Fed. Cir. 1997); *Muniz v. United States*, 972 F.2d 1304, 1308 (Fed. Cir. 1992). It is well established that this Board lacks authority to decide a travel or relocation claim brought by an employee who is subject to the grievance procedure in a CBA unless that agreement explicitly excludes such claims from that grievance procedure. *See, e.g.*, *Kelly Williams*, 2840-RELO, slip op. at 2 (July 26, 2012); *Warren Newell*, CBCA 2132-RELO, 10-2 BCA ¶ 34,601, at 170,534; *Forrest S. Ford*, CBCA 1289-RELO, 09-2 BCA ¶ 34,163, at 168,901-02; *Michael F. Morley*, GSBCA 15457-RELO, 02-1 BCA ¶ 31,688, at 156,564 (2001).

The CBA that applies to Mr. Estill sets forth procedures for resolving grievances, which are defined as any matter related to an employee's employment. There is no exception in those procedures that allows for the Board to resolve or review a claim related to travel or relocation. Since the issue of whether the IRS may now collect the amount of the WTA from Mr. Estill is a matter related to his employment, it is subject to the grievance procedure in the CBA, and this Board has no authority to decide this case.

Decision

This case is dismissed for lack of jurisdiction.

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H. CHUCK KULLBERG
Board Judge