



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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July 18, 2011

CBCA 2416-TRAV

In the Matter of DIANE M. BALDERSON

Diane M. Balderson, Hollywood, MD, Claimant.

Trever Henson, Back-up Team Lead, National Travel Support Team, Naval Air Systems Command, Patuxent River, MD, appearing for Department of the Navy.

**GOODMAN**, Board Judge.

Claimant, Diane M. Balderson, is a civilian employee of the Department of the Navy. The agency has denied her reimbursement of certain costs incurred during temporary duty (TDY) travel. Claimant asks this Board to review the agency's denial of her claim.

Background

Claimant traveled from her permanent duty station (PDS) of Hollywood, Maryland, to her TDY station at Wright Patterson Air Force Base, Dayton, Ohio, on January 25, 2011. She drove her personally-owned vehicle (POV) to Washington Reagan National Airport and parked it there prior to her flight. She was scheduled to return to her PDS on January 28, 2011, departing Dayton, Ohio, at 6:59 p.m. and arriving Washington Reagan at 8:25 p.m. This flight was delayed; she took the next available flight, leaving at 11:00 p.m. and arriving at 12:30 a.m. The time spent de-boarding and obtaining luggage was an additional thirty minutes, so she was not able to depart the airport until 1:00 a.m., Saturday, January 29, 2011.

By this time, claimant had worked an eighteen-hour day, and she considered it a safety risk to continue her work day by driving 1.5 hours to her residence in Hollywood, Maryland. She decided it was in her best interest to seek lodging and return to her residence on Saturday, January 29, 2011, once she had rested for the remainder of the night. Claimant obtained lodging at a hotel near the airport to sleep until she could drive to her residence the next morning.

Claimant submitted a travel voucher for reimbursement which included the \$199.55 cost of the local hotel accommodations. The agency denied reimbursement for her overnight stay at the hotel on the return because her lodging was not at the TDY location, but within the area of her PDS. However, the agency did authorize 3/4 miscellaneous and incidental expenses for Saturday, January 29, 2011, "as that would be indicated as the end travel date."<sup>1</sup>

In support of its decision, the agency cited the following provision of the Joint Travel Regulations (JTR):

#### C4552 GENERAL RULES REGARDING PER DIEM

##### C. Per Diem at the PDS

##### 1. Per Diem Not Allowed

- a. Per diem cannot be authorized or paid within the PDS limits (APP A), or at, or within the vicinity of, the place of abode (residence) from which the employee commutes daily to the official station except as provided in par. C4552-D (CBCA 1795-TRAV, 12 March 2010, B-318229, 22 December 2009).

Claimant asks that this Board review the agency's denial of the lodging expense.

#### Discussion

The agency is correct that an employee is generally not entitled to reimbursement for lodging at the PDS. In *Mark E. Byers*, CBCA 2371-TRAV (May 18, 2011), this Board discussed prior case law finding employees not entitled to reimbursement of lodging when they are able to travel to their residence from the vicinity of their PDS after an extended work day. However, the Board did find an exception to the general rule that when the employee

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<sup>1</sup> The agency also suggested that claimant should have taken a taxi home rather than drive her POV from the airport. This would have resulted in an approximate \$135 taxi fare, additional parking fees for the POV remaining at the airport, and a similar taxi fare returning to the airport to retrieve her POV.

arrives at the PDS via air travel and is actually prevented due to inclement weather from traveling from the vicinity of the airport to the employee's residence, the employee would be entitled to reimbursement for lodging to allow the employee to wait until weather conditions permitted travel home.

In the instant case, we find a similar exception. Claimant had worked an eighteen-hour day before arriving at the PDS and faced a one and one-half hour drive in the early morning hours to her residence. We find that the safety concerns involved in driving after such an extended work day, with regard to claimant's own safety and the safety of others she might encounter during a drive home, prevented claimant from traveling at that hour. The suggestion by the agency that she should have taken a cab home and then retrieved her POV at a later date at greater cost than the lodging costs incurred is neither prudent, reasonable, nor in the interest of the Government. Claimant is entitled to reimbursement for her lodging costs, up to the maximum amount permitted for that location under applicable regulations.

#### Decision

The claim is granted.

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ALLAN H. GOODMAN  
Board Judge