UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 7, 2007

CBCA 798-RELO

In the Matter of MATTHEW E. HAACKER

Matthew E. Haacker, Yorktown, VA, Claimant.

Kaylene A. Stephens, Civilian Pay Office, Department of the Air Force, Langley Air Force Base, VA, appearing for the Department of the Air Force.

SHERIDAN, Board Judge.

The Department of the Air Force (USAF) authorized the claimant, Matthew E. Haacker, a permanent change of station (PCS) from Ramstein Air Base, Germany (Ramstein AB GE), to Langley Air Force Base (Langley AFB), Virginia, by travel orders dated May 9, 2006. Mr. Haacker seeks $951.44 for his dependent wife's hotel and meal expenses incurred during the move.

The claimant was authorized movement and household goods (HHG) shipment from Germany to the Langley AFB area. His dependent wife had not accompanied the claimant on his assignment in Germany and had remained in Hawaii. The claimant was authorized movement and HHG shipment for his wife from Hawaii to the Langley AFB area. Paragraph 28 of the travel orders provided, in pertinent part:

> TQSA (Temporary Quarters Subsistence Allowance) authorized. . . . Employee and/or dependent(s) are entitled up to 10 days subsistence expenses before final departure(s). Receipts are required for reimbursement of lodging and laundry/cleaning expenses. These entitlements are "Overseas Allowances" under the Department of State Standardized Regulations (DSSR) and as such are paid through the civilian pay using the "SF 1190" as

long as the employee is entitled to station allowances.

Mr. Haacker states he was reimbursed "for all transportation costs" except for his wife's July 7 through 13, 2006, stay in the Honolulu Airport Hotel. The claimant proffers that his wife's hotel stay was necessitated because she was required to vacate quarters due to the shipment of HHG, and there was no lodging available on base. The claimant has incurred costs of $951.44 for his wife's six-day stay at the hotel, including meals.

The USAF denied the claimant reimbursement for the $951.44 in costs. According to Mr. Haacker, "the finance official stated . . . [w]ith Hawaii not considered an overseas assignment, [his wife] was not entitled to [temporary lodging] upon departure." Mr. Haacker appeals to the Board to overturn the USAF's refusal to reimburse him the $951.44.

Referencing title 5, United States Code, section 5724a, and Joint Travel Regulations (JTR), volume 2, chapter 5, the agency posits that it lacks the authority to change the entitlement already granted Mr. Haacker. The agency notes:

> Department of State Standardized Regulation (DSSR), section 120 only authorizes TQSA reimbursement for employees/dependents who are stationed/living in a foreign area -- Hawaii is not listed under foreign area as defined by the DSSR Definitions. Therefore, Mr. Haacker is . . . not authorized TQSA for the dependent spouse's location in Hawaii while Mr. Haacker was PCSing from Ramstein AB GE.

The JTR of the Department of Defense expressly state that TQSA rules for employees occupying temporary quarters immediately preceding final departure from a PDS are found in section 120 of the DSSR. JTR C1003. DSSR section 120 authorizes TQSA for employees/dependents immediately preceding final departure from the post in a foreign area subsequent to the necessary vacating of residence quarters. DSSR 121(b). According to DSSR section 040: "Foreign area" means any area situated outside the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the possessions of the United States." Hawaii is not considered a foreign area for purposes of the regulation, and, as such TQSA is not allowed.

As the USAF correctly determined, according to the applicable regulations, the claimed $951.44 for hotel costs are not reimbursable. For this reason, we deny the claim.

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PATRICIA J. SHERIDAN

Board Judge