



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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November 19, 2015

CBCA 4978-RELO

In the Matter of TIMOTHY J. FISHER

Timothy J. Fisher, Sacramento, CA, Claimant.

Chris Barned, Relocation Specialist/Certifying Officer, National Operations Center, Bureau of Land Management, Department of the Interior, Denver, CO, appearing for Department of the Interior.

DANIELS, Board Judge (Chairman).

The Department of the Interior's Bureau of Land Management (BLM) transferred Timothy J. Fisher from Waldport, Oregon, to Sacramento, California, in May 2015. In orders mandating the transfer, the agency authorized reimbursement of thirty days of actually-incurred temporary quarters subsistence expenses (TQSE). Mr. Fisher submitted a claim for reimbursement of these expenses, for the period from May 24 to June 22, and the agency paid it. By memorandum dated August 12, 2015, Mr. Fisher requested authorization for another thirty days of TQSE. The request was approved by BLM's deputy state director for California, but the agency's National Operations Center rejected it because it was not submitted before the authorized period of TQSE expired. Mr. Fisher challenges the denial of the additional period of TQSE eligibility.

BLM's determination is based on its reading of section 5.2 of the Department of the Interior's Permanent Change of Station Policy. This section reads, in pertinent part:

As a general policy, actual TQSE will be authorized for a period **not to exceed (NTE) 30 consecutive days**. If no househunting trip was authorized or taken, requests for an additional period of 30 days (or less) NTE a total of 60

consecutive days may be granted, provided a written request is submitted through the appropriate delegated authority for approval.

If a househunting trip was authorized and taken by the employee and/or spouse, TQSE will be limited to 30 days maximum. Under extenuating circumstances only, extensions of no more than 15 days may be requested, NTE a total of 45 days of TQSE. All such requests must be made **prior** to the end of the first 30-day period.

Requests for extension of TQSE beyond 45 or 60 days, whichever is applicable, must be supported by significant compelling reasons. The approval level for these extensions must be set at the Associate Directors level in each bureau. Consideration to approve these requests must have concurrence by a Bureau Finance Division Chief.

Extensions of TQSE are not automatic. . . . Extensions of TQSE will be authorized only in situations where there is a demonstrated need for the additional time due to circumstances which have occurred during the first 60-day period of temporary quarters and which are determined to be beyond the employee's control.

The agency's National Operations Center misreads the policy statement. According to the policy, requests for an extension of the TQSE eligibility period must be made prior to the end of the first thirty-day period only if a househunting trip was authorized and taken by the employee and/or the employee's spouse. If a househunting trip was not authorized and taken, requests for an additional period of thirty days or less "may be granted, provided a written request is submitted through the appropriate delegated authority for approval." No restrictions are placed on when such requests may be made. Further, the level of approval for the requests is lower than the level for requests for extensions beyond sixty days, and neither a demonstration of "significant compelling reasons" nor concurrence by a finance chief is necessary.

Mr. Fisher tells us that he did not take a househunting trip prior to his move, and BLM does not dispute his statement. His request was for thirty days of TQSE in addition to the originally-authorized thirty, for a total of sixty days. Consequently, the request could be approved – as it was – as long as it was "submitted through the appropriate delegated authority for approval." BLM does not deny that its deputy state director was the "appropriate delegated authority for approval." The National Operations Center had no justification for countermanding the deputy state director's approval. We therefore direct BLM to pay Mr. Fisher for a second thirty days of TQSE, within the confines of the Federal

Travel Regulation's limits as to reimbursement of these costs. *See* 41 CFR 302-6.100, -6.102 (2014).<sup>1</sup>

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STEPHEN M. DANIELS  
Board Judge

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<sup>1</sup> We are able to resolve this case with reference to the Department of the Interior's Permanent Change of Station Policy as written. We have noted, however, in our review of the policy, that it contains an anachronism which ought to be removed. As we pointed out in a case involving the travel rules of another of the department's travel handbooks, agency rules are valid only to the extent that they are consistent with the controlling Federal Travel Regulation (FTR). *Kevin D. Reynolds*, CBCA 2201-RELO, 11-1 BCA ¶ 34,756. The requirement that an extension of the TQSE eligibility period be granted only "due to circumstances which have occurred during the first 60-day period of temporary quarters" was eliminated from the FTR in 1997. For the past eighteen years, requests for TQSE eligibility beyond the first sixty days may be granted if an agency finds a compelling reason for the extension, regardless of when the request was made. *Cid H. Morgan*, GSBCA 15862-RELO, 03-1 BCA ¶ 32,093 (2002); *John E. Joneikis*, GSBCA 15455-RELO, 01-2 BCA ¶ 31,514.