



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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February 27, 2019

CBCA 6154-RELO

In the Matter of RUBEN E. MIRANDA

Ruben E. Miranda, Santo Domingo, Dominican Republic, Claimant

Maj. Devon A.R. Wells, Chief, Administrative Law, Office of the Staff Judge Advocate, United States Southern Command, Department of the Army, Doral, FL, appearing for Department of Defense.

**SHERIDAN**, Board Judge.

The Department of the Army, United States Southern Command (USSOUTHCOM or agency), has requested reconsideration of the Board's decision of *Ruben E. Miranda*, CBCA 6154-RELO, 18-1 BCA ¶ 37,153. In its decision, the Board denied claimant Ruben E. Miranda's claim for temporary duty (TDY) expenses but found entitlement to a foreign travel allowance (FTA) for claimant and his family for the period lasting from October 27 to November 28, 2017. Familiarity with that decision is assumed.

This was a case in which the agency issued travel orders authorizing a permanent change of station and associated TDY. Claimant incurred expenses incident to the travel orders and sought reimbursement for those expenses. In reviewing claimant's travel voucher after the expenses were incurred, the agency concluded that it had erroneously approved TDY because the TDY costs were incurred within the fifty mile radius of claimant's permanent duty station. Claimant incurred those costs because visas were delayed, and claimant's household goods had been shipped, forcing claimant and his family to move out of his residence and begin residing in a hotel. USSOUTHCOM denied payment of most of the expenses related to claimant's hotel stay and meals incurred prior to him leaving the United States. We concluded that USSOUTHCOM was aware of the wait for the visas and intended "to reimburse the claimant for expenses he incurred on behalf of himself and his

dependents during the period lasting from October 27, 2017 to November 28, 2017.”  
*Miranda*, 18-1 BCA at 180,859.

The agency objects to our decision that claimant is alternatively entitled to FTA, stating that “USSOUTHCOM has not authorized FTA for a civilian in the 15 years [the authorizing official] has been authorizing travel . . . [and] it was not, and still is not USSOUTHCOM’s intent to authorize this entitlement for [claimant].”

The fact that an agency may have a history or broad policy against authorizing an FTA allowance is not an adequate reason to deny reimbursement under the facts presented in this matter. Here, claimant incurred authorized expenses that were ultimately found to be unallowable based on the erroneous designation of TDY rather than an FTA allowance. USSOUTHCOM cannot reasonably refuse to compensate claimant for expenses that were authorized and incurred under incorrect travel orders when there is a valid way for it to reimburse claimant that is supported by an appropriate regulation.

The request for reconsideration is denied.

*Patricia J. Sheridan*  
PATRICIA J. SHERIDAN  
Board Judge