

DATE: September 10, 2001

In Re:

[Redacted]

Claimant

Claims Case No. 01083115

CLAIMS APPEALS BOARD DECISION

DIGEST

A member who purchased airline tickets for temporary duty official travel did not purchase the tickets from a travel agency under government contract or other approved facility. Reimbursement of the member is not proper because paragraph U3120 of volume 1 of the Joint Federal Travel Regulations (1 JFTR ¶ U3120) requires that the member purchase tickets from one of the facilities described in 1 JFTR ¶ U3120-A unless under 1 JFTR ¶ U3120-B the order-issuing official authorized or later approved purchase from a non-authorized facility due to unusual circumstances when there was no alternative.

DECISION

An Air Force service member appeals the July 2, 2001, Settlement Certificate of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 01061104, in which DOHA affirmed the decision of the Defense Finance and Accounting Service (DFAS) and an Air Force major command financial services officer to deny reimbursement for air fare related to temporary duty travel (TDY). The basis of denial is that the member did not obtain his tickets from an authorized facility in accordance with volume 1, Joint Federal Travel Regulations, paragraph U3120 (1 JFTR ¶ U3120).

Background

The record indicates that the member, a field grade officer, traveled from Virginia to Florida (and returned) for TDY between March 28, 2001, and April 1, 2001. Prior to receiving his orders, the member had been asked to officiate at a retirement ceremony being held at his TDY location during the same period, and on January 31, 2001, purchased an airline ticket from AirTran Airways for \$194 for travel to the retirement ceremony. His TDY duties required the member to travel a day earlier than he had planned to leave for the retirement ceremony. The member compared the cost of obtaining tickets at the government rate with the cost of using the tickets he had already purchased (plus a \$50 fee to amend the existing travel), and concluded the government would save \$367 by allowing him to procure his own travel arrangements. On his travel voucher, the member also stated that his supervisor, a brigadier general, approved the \$50 fee to change the arrangements with AirTran and agreed to provide a letter of justification for ticket reimbursement if necessary.

In our Settlement Certificate, we quoted the applicable provisions of 1 JFTR ¶ U3120. Among other things, the Settlement Certificate advised the member that his direct purchase from the carrier was not from one of the authorized facilities listed in subparagraph U3120-A (*i.e.*, a contract travel office (CTO), an in-house travel office, or a GSA Travel Management Center). We also advised the member that authorization from the order-issuing official (or approval afterwards) is a condition precedent to reimbursement for tickets obtained from a source other than those named in subparagraph U3120-A: "a non-contract travel agent or common carrier direct purchase . . . must be authorized/approved by the order-issuing official." We pointed out that the record lacks any indication that the member had "no alternative" but to purchase his ticket from the common carrier. Even if he had been advised that his travel plans were proper, the Settlement Certificate makes it clear that the government generally is not bound by the erroneous advice of government officials.

In his appeal, the member states that DOHA's statement of facts was basically correct, but that while the conclusion appears to be determined logically, some factors were not adequately addressed. In his official position, he says that he travels frequently and is quite familiar with travel regulations and processes. In this case, the member states that his choice was to needlessly waste Air Force funds and keep the original ticket for himself or do what he did, which in his opinion was the prudent use of government resources. The member insists that he made his arrangements with the full knowledge of accounting and finance professionals and the concurrence of the orders approving official who was a general officer. The member believes that DOHA set a dangerous precedent when it disallows a claim by a person who was given well-intentioned advice by subject matter experts and supervisors. Finally, he insists he had no alternative because he could not in good conscience waste government resources. He knew he was taking a chance of not being reimbursed, but counted on the good judgment of the appeal process to support him.

Discussion

When a member fails to use a CTO or other approved facility to procure his airline tickets, he must meet an exception in 1 JFTR ¶ U3120 to obtain reimbursement. With respect to domestic travel, the record must contain authorization (beforehand) or approval (afterwards) by the order-issuing official that unusual circumstances prevented the member's use of the CTO or other approved facility, and that the member had no alternative. The JFTR also requires that the member must demonstrate that he attempted to use the authorized facility. *See* DOHA Claims Case No. 00033004 (June 22, 2000).

The member's position on appeal appears to be that reimbursement is proper under 1 JFTR ¶ U3120 when he is advised by travel officials/experts (with supervisory concurrence) that his travel plans are proper and when the member can save money for the government. For purposes of claim settlement, our adjudicators accepted the member's statement that he was advised by the finance office that his airfare would be reimbursed,⁽¹⁾ but our review of the record indicates that the member's support for this assumption is, at best, questionable and may be contradictory.

First, we find no documentation in the record from the order-issuing official authorizing or approving a common carrier direct purchase as an exception from the authorized facility requirements in subparagraph U3120-A.

Second, the e-mail message traffic between the member and travel officials does not indicate that the experts had advised the member that his arrangements conformed with the JFTR. In fact, on April 13, 2001, one financial management official wrote to the member and stated that she did not recall discussing reimbursement of any fees to change the member's ticket but did recall telling him that they were not able to reimburse him for the ticket. She also

advised him that he could appeal non-reimbursement to DOHA. In correspondence misaddressed to the General Accounting Office dated May 18, 2001, another financial services official noted that the first official had advised the member on March 2, 2001, that they were not able to reimburse the member for an airline ticket unless he purchased it through an authorized source. The second official also was concerned that under 1 JFTR ¶ U3110 a member may not be reimbursed for personally-procured transportation when a specific transportation mode is directed. Against this official documentary evidence, the member offers nothing except his own statement that he was advised by travel experts that he was permitted to do what he did.

The member believes that he was left with "no alternative" because Air Force funds otherwise would be wasted. However, the JFTR does not place the "no alternative" determination in the hands of the traveler, even if he is a frequent traveler who is quite familiar with travel regulations and processes. Under 1 JFTR ¶ U3120-B(1)(a), an order-issuing official may authorize or approve a ticket purchase from non-authorized facility: "in unusual circumstances when there is no alternative." In other words, the decision belongs to the order-issuing official, and as we indicated above, this record lacks documentary support that the order-issuing official found that the member's situation was "unusual" and that he had no alternative but to make the direct purchase from AirTran. Moreover, there is no indication that the member even attempted to use the CTO, a mandatory condition for reimbursement.

This situation is not unusual. Other claimants have also stated that they were motivated to use non-authorized facilities by the opportunity to save money for the government. *See, e.g.*, DOHA Claims Case No.00033003 (June 22, 2000). As in the case before us, we denied reimbursement to a member who did not attempt to use the CTO because he thought he was saving money for the government. *See* DOHA Claims Case No. 00021004 (June 12, 2000). The claimant in the present claim states that he is quite familiar with the travel regulations; however, we have disallowed claims for reimbursement even when a member was unfamiliar with the policy set forth in 1 JFTR ¶ U3120. *See, e.g.*, DOHA Claims Case No. 00022212 (June 19, 2000); DOHA Claims Case No. 00021415 (June 12, 2000); and DOHA Claims Case No. 99101308 (May 5, 2000). And even though claimants present strong equitable reasons why they should be reimbursed, we are constrained by the applicable regulations not to reimburse them. For travel claims, we must base our decisions on the law and implementing regulations applicable to the situation at hand--in this case, the relevant portions of the JFTR in effect at the time the member traveled. *See* DOHA Claims Case No. 96123013 (June 2, 1997). *See also* DOHA Claims Case No. 99101308, *supra*. Travel policies require that a member follow the requirements of 1 JFTR ¶ U3120, even though a traveler may have obtained less expensive service in a particular instance. This policy is in effect presumably because the government is obtaining a significant benefit due to CTO availability.

Conclusion

For the reasons noted above, we affirm the Settlement Certificate.

Signed: Michael D. Hipple

Michael D. Hipple

Chairman, Claims Appeals Board

Signed: Christine M. Kopocis

Christine M. Kopocis

Member, Claims Appeals Board

Signed: Jean E. Smallin

Jean E. Smallin

Member, Claims Appeals Board

1. As the Settlement Certificate stated, even if the member had been misinformed, the government would not have been bound by the erroneous advice of its officers or employees, when such advice contravenes existing regulations. *See* DOHA Claims Case No. 00033004 (June 22, 2000) and the decisions cited therein.