

DATE: May 20, 1998

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In Re:

[Redacted]

Claimant

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Claims Case No. 98051405

## CLAIMS APPEALS BOARD DECISION

### DIGEST

A member who traveled to a temporary duty assignment did not purchase airline tickets from a travel agency under government contract or other approved facility. Reimbursement is not proper because paragraph U3120-A of volume 1 of the Joint Federal Travel Regulations requires that a member purchase tickets from one of those facilities unless he can demonstrate that he had no alternative but to purchase tickets elsewhere. The record contains no such demonstration.

### DECISION

This is in response to an appeal of the Defense Office of Hearings and Appeals (DOHA) Settlement Certificate, DOHA Claim No. 97081833, September 4, 1997, which denied a member's claim for reimbursement for the cost of airplane tickets purchased for temporary duty (TDY) travel in early 1997.

#### Background

The record indicates that on December 10, 1996, the member received travel orders directing him to perform TDY at the Senior Non-Commissioned Officers Academy at Gunter Air Force Base, Alabama, beginning in early January 1997. Item 14 of the orders put the estimated cost of his travel (excluding per diem) at \$682.00, the rate if the airline tickets had been purchased with a Government Transportation Request (GTR). Item 16, "remarks", noted that Item 5 on the reverse side of the orders applied. That item stated in part:

"Personnel authorized to personally procure commercial transportation are directed to report to Commercial Travel Office for reservations. Tickets purchased from any source other than CTO will result in non-reimbursement for any tickets purchased (ref JFTR U3120A & JTR C2207A)."

The member states that the personnel in the military training office at his home base told him he could make his own travel arrangements because he wanted to take some leave in conjunction with his TDY. Apparently, he was not advised that he should use the Commercial Travel Office (CTO) at his home base. The member purchased airline tickets for himself and his wife at a facility not under contract to the Government. After returning from TDY and subsequent leave, the finance office at his home base told the member that he could not be reimbursed for the cost of his ticket because he was required by his orders to purchase his ticket from the CTO at his home base. Our Settlement Certificate also denied his request for reimbursement.

The member asks his Senator to assist him in appealing to our Office. The member states that he realizes that he was in error in not reading his orders more carefully, but he believes that making him pay the full cost of the ticket himself is too extreme of a penalty for such a small mistake. He reiterates that, as our Settlement Certificate acknowledges, he saved the government \$205.99 when he purchased a ticket for \$476.01.

#### Discussion

When a member makes a claim, the government's liability is limited to that provided by the relevant law and

regulations. 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 volume 1 of the Joint Federal Travel Regulations (JFTR) in effect at the time the member traveled.<sup>(1)</sup> See DOHA Claims Case No. 96123013 (June 2, 1997). Paragraph U3120-A of volume 1 of the JFTR provides that a member is authorized to arrange official travel through a CTO under government contract to his organization, an in-house travel office, or a General Services Administration Travel Management Center. A member who arranges domestic travel through a CTO not under government contract is not authorized reimbursement unless he can demonstrate that he had no alternative. This provision took effect January 1, 1995 (change 97, dated January 1, 1995). See DOHA Claims Case No. 97041006 (August 26, 1997).

In the present situation, the member has not demonstrated that he had no alternative but to use a non-contract CTO. The member purchased the ticket well in advance of actual travel, and the receipt for the tickets shows they were purchased before the official travel orders had been published. The tickets were purchased in the local area, even though the home base has a viable Government contracted travel office. Even though he saved the government money, the JFTR specifically denies reimbursement when a member procures transportation from other than a CTO contracted to the organization.

The failure of a government employee to inform the member that he must purchase tickets at a specified ticket facility does not provide a basis for payment, since the government is not liable for the erroneous or negligent actions of its officers, agents, or employees. See Petty Officer John R. Blaylock, 60 Comp. Gen. 257 (1981). The member acknowledges that his orders did specify the need to purchase tickets from the base CTO and the consequences if tickets were purchased from

a non-contract CTO. We have no authority to allow the service member's claim in the present situation because the JFTR does not authorize it.

### Conclusion

We affirm the Settlement Certificate.

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/s/

Michael D. Hipple

Chairman, Claims Appeals Board

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/s/

Christine M. Kopocis

Member, Claims Appeals Board

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/s/

Michael H. Leonard

Member, Claims Appeals Board

1. The statute which governs travel and transportation allowances in general, 37 U.S.C.

§ 404, does not explicitly provide an answer to the question before us,--*i.e.*, whether the member can be reimbursed in the present circumstances. The answer to that question is found in the JFTR, which, as an implementing regulation, has the force of law.