UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 30, 2013

CBCA 3211-TRAV

In the Matter of CRAIG W. SMITH

Craig W. Smith, Lenexa, KS, Claimant.

Kathleen Clever, Senior Assistant Regional Counsel, Environment Protection Agency, Lenexa, KS, appearing for Agency.

STERN, Board Judge.

Claimant was authorized travel by the Environmental Protection Agency (EPA) to attend a business meeting in San Francisco, California. Claimant traveled from his home in Kansas City, Kansas, on Monday, July 23, 2012, to attend this meeting on July 24 and 25, 2012. The meeting concluded at approximately 4:30 p.m. on July 25. Thereafter, claimant took personal leave and returned to Kansas City on July 29, 2012. The EPA denied claimant's request for reimbursement of lodging expenses for the night of July 25, on the basis that claimant was on personal leave as of the conclusion of the business meeting.

Discussion

The EPA contends that were it not for claimant's personal leave, claimant could have returned home after the conclusion of the meeting on July 25. The EPA submits that claimant could have taken a 6:52 p.m. flight from San Francisco, arriving in Kansas City at 12:30 a.m. the following day. Allowing for baggage pickup and the commute home, the EPA estimates that claimant would have arrived at his residence at around 2:00 a.m. The EPA argues that claimant did not remain in San Francisco on agency business and that since he went on personal leave on July 26, 2012, he is not entitled to be paid lodging for the night of July 25 in any event.

As a basis for denial of the claim, the EPA cites its own intranet guidance regarding employee work schedules. This guidance provides an example upon which the EPA relies

to deny the claim. The example, however, is in response to a question concerning travel compensatory time. The example concludes that a traveler is not entitled to lodging expenses following the conclusion of a business meeting, if he takes leave instead of returning to his permanent duty station. We find that this rule has application only in the context in which it was written. It presupposes that the employee could have returned to his permanent station at a reasonable time on the same day that the temporary duty business meeting concluded. The example addresses the question of whether compensatory time may be granted to extend the temporary duty through the end of the day to permit the traveler to stay overnight. The rule has no application to the situation before us, not involving compensatory time, where the business meeting has concluded at a time of the day when it would be no longer reasonable to compel the employee to travel home.

Ordinarily a traveler should not be required to travel during unreasonable hours at night. Travel the day after the conclusion of agency business is appropriate to avoid travel during late hours. *See* Joint Travel Regulations (JTR) C4485 (pertaining to Department of Defense civilian employees on official Government travel). This rule is reasonable and provides us guidance here. We have previously found that it is proper to pay an employee's expenses for an overnight stay after agency business has concluded, where travel to return to his permanent duty station on the last day of official business would have resulted in an unreasonably long workday. *Mark Chapman*, GSBCA 13684-TRAV, 97-1 BCA ¶ 28,960. We have also held that payment for lodging at the permanent duty station is appropriate where there were safety concerns involved in driving after an extended workday. *Diane M. Balderson,* CBCA 2416-TRAV, 11-2 BCA ¶ 34,801.

To deny reimbursement for lodging, on a constructive basis, would require our acceptance of the position that were it not for claimant's personal travel on July 26, the EPA could have compelled claimant to return home the night of July 25 and arrive at home at 2:00 a.m. on July 26, after having spent a full day in a meeting on EPA business. It would have been unreasonable to compel claimant's travel home after the conclusion of agency business on July 25 when his arrival at home would have been at 2:00 a.m. Claimant's personal travel on July 26 does not affect his right to be reimbursed for lodging while still on Government business. Claimant is entitled to be paid his actual cost of lodging for the night of July 25, not to exceed the lodging rate in the temporary duty area.

Decision

The claim is granted.

JAMES L. STERN
Board Judge