

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

February 12, 2002

GSBCA 15573-RELO

In the Matter of SANDRA L. McCLELLAN-WHITTLE

Sandra L. McClellan-Whittle, Antelope, CA, Claimant.

Lt. Daniel C. Genest, Financial Services Officer, Department of the Air Force, Beale Air Force Base, CA, appearing for Department of the Air Force.

HYATT, Board Judge.

Claimant, Sandra L. McClellan-Whittle, has requested our review of the denial by the Department of the Air Force of her claim for payment of fixed temporary quarters subsistence expenses (TQSE). Ms. McClellan-Whittle is a civilian employee of the Air Force who was formerly stationed at McClellan Air Force Base in Sacramento, California. Due to the closure of this base, claimant was offered a position at Beale Air Force Base near Yuba City, California, which she accepted. Prior to accepting the offered permanent change of station (PCS), claimant was briefed concerning her relocation entitlements. She was told that she would be entitled, among other things, to movement and storage of household goods, real estate transaction expenses, and TQSE. Ms. McClellan-Whittle was offered the option of fixed amount, or "lump sum," TQSE, which she elected.

After she accepted the position at Beale Air Force Base, claimant received official PCS orders, authorizing up to thirty days of fixed TQSE, which was estimated to be \$3000. Claimant's transfer to Beale Air Force Base was effective on January 30, 2000. Claimant and her family decided to relocate closer to Beale Air Force Base when they found acceptable housing in that area. To that end, claimant states that she and her family remained in their house at the old duty station but spent several weekends traveling to, and staying in the vicinity of, Beale Air Force Base looking for suitable housing closer to claimant's new duty station.

Ms. McClellan-Whittle filed a travel voucher seeking payment of her fixed TQSE to compensate for the costs incurred on these weekends spent looking for suitable housing closer to Beale Air Force Base. Her claim was denied by the Air Force because she had not

yet moved closer to her new duty station. She has requested review of this decision, asserting that she believes she has met the requirements for immediate payment of the fixed TQSE amount which was authorized in her PCS orders. The Air Force has responded that if and when Ms. McClellan-Whittle actually moves to the new permanent duty station (PDS), it will reimburse her the fixed TQSE amount.

Discussion

When an employee is transferred, in the interest of the Government, from one permanent duty station to another, the agency may pay subsistence expenses that the employee incurs while occupying temporary quarters, provided certain requirements are met. 5 U.S.C. § 5724a(a)(3) (2000); 41 CFR pt. 302-5 (2000). Eligibility for TQSE is addressed in the Federal Travel Regulation (FTR), which implements this statutory provision. For employees of the Department of Defense, the FTR is supplemented by the Joint Travel Regulations (JTR). Quarters are deemed to be temporary if they are obtained from either private or commercial sources, for the purpose of temporary occupancy. 41 CFR 302-5.2(c); JTR C13110A; see Brenda Byles, GSBCA 14592-RELO, 99-1 BCA ¶ 30,156 (1998). Under both the FTR and the JTR, in general temporary quarters are quarters occupied by the employee and his or her family, either in the vicinity of the new duty station or the old duty station, after selling or vacating the prior permanent residence at the old duty station and prior to moving into the new permanent residence at the new duty location. 41 CFR 302-5.9; JTR C13105, 13110B.

Under applicable regulations, there are two options that may be available to employees for whom TQSE has been authorized. Under the traditional, more common, method of reimbursement, the employee is compensated for actual costs incurred, up to the amount of the standard per diem rate for the continental United States, for up to sixty days, and, if compelling reasons are found, for up to an additional sixty days, for a total of no more than 120 days. 41 CFR 302-5.100 to -5.105; JTR C13205. Under the lump sum, or fixed, method of reimbursing TQSE, the employee is limited to a fixed amount based on the per diem rates set for the locality of the PDS, for a maximum of thirty days. 41 CFR 302-5.200; JTR C13305; see generally Lori A. Hazenstab, GSBCA 15256-RELO, 00-1 BCA ¶ 30,886. Under fixed rate TQSE, the employee simply receives the fixed amount authorized and is not required to provide receipts or an accounting of how the TQSE payment was used. JTR C13315. No extensions are allowed and the employee is not eligible for any additional payments if the fixed amount is not adequate to cover the cost of occupying temporary quarters. JTR C13310.

Although claimant has incurred expenses associated with her desire to locate new quarters in the vicinity of Beale Air Force Base, where she is now employed, the expenses she describes are not in the nature of temporary quarters as that term is used in the regulations. Regardless of the method authorized, the payment of TQSE contemplates that the employee is in the process of leaving the old PDS and moving permanently to the new one. TQSE is intended to tide the employee and family over, in the vicinity of either the old or new duty station, after the prior residence has essentially been vacated and until permanent quarters are available for occupancy. The expenses described by claimant are more in keeping with the type of expense an employee may be authorized to incur on a house hunting

trip.¹ These are not the types of expenses intended to be covered by TQSE. The Air Force properly declined to pay fixed TQSE for the expenses disclosed by claimant. Once claimant has actually arranged to move and occupy temporary quarters for some period of time in the vicinity of the new PDS, she is entitled to payment of the fixed lump sum, assuming that she commences her move within the two year period from the effective date of transfer, and any extension that may have been authorized, as set forth in the regulations. 41 CFR 302-1.6; JTR C1057.

CATHERINE B. HYATT
Board Judge

¹The travel orders do not authorize a house hunting trip nor does the record suggest that a house hunting trip was otherwise authorized.