

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

May 22, 2003

GSBCA 16058-TRAV

In the Matter of SOCHING TSAI

Soching Tsai, Washington, DC, Claimant.

Lawrence Baer, Executive Director, Bureau of East Asia and Pacific Affairs,
Department of State, Washington, DC, appearing for Department of State.

HYATT, Board Judge.

The Government cannot reimburse employees on temporary duty travel for the cost of clothing purchased as a result of unanticipated extensions of travel.

Background

Claimant, Soching Tsai, is an employee of the State Department's Bureau of East Asia and Pacific Affairs, stationed in the Washington, D.C., area. On December 9, 2002, she traveled from Washington to Bangkok on official business. She expected to return to Washington from Bangkok on December 14. Since the temperatures in Bangkok were forecast to be in the upper eighties for that period she packed only light, summer clothing for the trip.

While she was in Bangkok, Ms. Tsai's supervisor called her and asked if she would travel on to Beijing from Bangkok, again to perform official business. Thus, instead of returning to Washington, D.C., on December 14, as originally planned, on the evening of December 13 Ms. Tsai flew to Hong Kong, where she spent the weekend, and then flew on to Beijing on Monday, December 16, returning to Washington on December 19. Because the temperatures in Beijing were near freezing, and the clothing she packed for the trip to Bangkok was suitable only for summery conditions, Ms. Tsai needed to purchase winter clothing for her stay in Beijing. She purchased some woollen clothes in Hong Kong, including a coat, two sweaters, a skirt, and a pair of pants, for a total of \$477.22.

On her return to Washington, D.C., Ms. Tsai sought to be reimbursed for the cost of the clothing she purchased in connection with the trip to Beijing. Although the agency was sympathetic with her circumstances, she was told there was no authority under the regulations to pay for these purchases. In her request for the Board's review, Ms. Tsai points out that these purchases were necessitated by the en route modification of her travel plans, which was done solely for the convenience of the Government. She also notes that it was significantly less expensive to purchase clothing in Hong Kong than to return to Washington, D.C., over the weekend and then leave immediately for China. Finally, the clothing purchased was not the type of clothing she would ordinarily buy and keep in her wardrobe.

Discussion

_____ By statute, agencies may reimburse employees only for actual and necessary expenses of travel. 5 U.S.C. § 5706 (2000). The Federal Travel Regulation (FTR), which implements this statutory provision, authorizes agencies to reimburse employees for miscellaneous expenses that they incur during the performance of their temporary duties, in connection with the transaction of official business. Examples of reimbursable miscellaneous expenses include payments made for the use of computers and printers, the services of typists and stenographers, storage of property used for official business, official telephone calls, and fees for travelers checks and passports. 41 CFR 301-12.1 (2002). Chapter 6 of the Foreign Affairs Manual (FAM) similarly enumerates miscellaneous expenses that may be reimbursed in connection with official travel, and specifically states that personal expenses are not reimbursable. 6 FAM 142-143. Both this Board and the General Accounting Office (GAO), which reviewed travel reimbursement claims until July 1996, have concluded that the purchase or rental of clothing in connection with the performance of official travel is not reimbursable as a miscellaneous expense. Thomas J. May, GSBCA 15030-TRAV, 99-2 BCA ¶ 30,488; Donald Dudley, B-215327 (Aug. 3, 1983); Gail H. Christiansen, B-198823 (Dec. 10, 1980); Bureau of Narcotics and Drugs, B-179057 (May 14, 1974); 35 Comp. Gen. 361 (1955).

In deciding claims similar to the instant one, GAO has considered whether the purchases were essential to carry out the employee's duties and primarily to benefit the Government, or whether the items purchased were such as the employee reasonably might have been expected to furnish as part of the usual and necessary items needed to perform his regular duties. For example, in declining to authorize reimbursement of the rental cost of a dinner jacket incurred in order to accept an invitation to a business-related dinner that was issued after arrival at the employee's temporary duty destination, GAO reasoned:

The established rule is that personal furnishings are not authorized to be purchased under appropriations, in the absence of specific provisions therefor contained in such appropriations or other acts, if such furnishings are for the personal convenience, comfort, or protection of such employees, or are such as to be reasonably required as a part of the usual and necessary equipment for the work on which they are engaged or for which they are employed.

35 Comp. Gen. at 361 (citations omitted). The Board followed this precedent in May. In essence, expenses such as the purchase of clothing needed for wear while on official travel, even if necessitated by circumstances not readily anticipated prior to the employee's departure pursuant to travel orders, such as the change to the travel itinerary that occurred here, are nonetheless considered to be personal in nature and thus not recoverable as an official travel expense. These are simply not the types of expenditures that may be made with public funds.¹ Although we sympathize with Ms. Tsai's points that she altered her travel plans for the convenience of the Government and does not desire to keep the clothing she purchased for future use, neither the agency nor the Board has the authority to grant this claim.

CATHERINE B. HYATT
Board Judge

¹ This point has also been made by GAO in other contexts, as well. See, e.g., Purchase of Cold Weather Clothing, B-289683 (Oct. 7, 2002) (in the absence of specific statutory authorization, agencies may not use appropriated funds to purchase ordinary wearing apparel for employees); Anthony Stapon, B-230820 (Apr. 25, 1988) (IRS not authorized to provide clothing for inclement weather to its agents).