

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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July 18, 2006

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GSBCA 16774-TRAV

In the Matter of LARRY E. JOHNSON

Larry E. Johnson, Albuquerque, NM, Claimant.

Mark S. Ledford, Division of Contracts and Claims, Office of General Law, Office of the General Counsel, Social Security Administration, Baltimore, MD, appearing for Social Security Administration.

**HYATT**, Board Judge.

Claimant, Larry E. Johnson, is an Administrative Law Judge employed by the Social Security Administration (SSA). His claim is for reimbursement of expenses occasioned by leave interruption travel. Claimant states this travel was necessary because of questions raised by his supervisor with respect to business travel that was scheduled to commence immediately following the completion of his annual leave. The agency has disallowed his claim on the ground that he was neither ordered nor requested by his supervisor to interrupt his vacation to return to the office to resolve the questions that had been raised concerning his planned travel.

## Background

Claimant, whose permanent duty station is in Albuquerque, New Mexico, took two weeks of annual leave, from July 11 through July 22, 2005, during which he traveled to Las Vegas, Nevada. Prior to leaving on vacation, he had scheduled travel in three dockets. The office administrative assistant had prepared vouchers with estimated expenses to accompany

requests for travel orders for these trips and submitted them to the Chief Administrative Law Judge in claimant's office for approval. The first of these three trips was scheduled to commence on Sunday, July 24, 2005. Thus, claimant had planned to leave directly on travel after completing his vacation without a return to the office.

Sometime during the week of July 11 through July 15, the Chief Administrative Law Judge left a voice mail message on claimant's cell phone, questioning certain of the expenses included in claimant's travel vouchers. Claimant retrieved the voice mail message on Saturday, July 16. Claimant acknowledges that the voice mail message did not contain a directive to return to the office but states that, nonetheless, he deemed it necessary to return to "preserve the hearing trips involved." He thus left Las Vegas to return to Albuquerque, traveling on Sunday, July 17, and arriving on Monday, July 18, 2005.

The Chief Administrative Law Judge's concerns were about estimated expenses for the planned trips. Claimant did not prepare the authorization requests nor did he supply any of the estimated expense amounts. The authorization requests were prepared by the administrative assistant, who routinely generates these documents for all of the administrative law judges in the office. Claimant researched his supervisor's questions and met with the administrative assistant to determine how expenses were estimated. After he met with the Chief Administrative Law Judge on Tuesday, July 20, 2005, the issues arising with respect to the first trip were resolved. Claimant then returned to Las Vegas to resume his vacation.

Claimant submitted a claim for leave interruption expenses after returning from his scheduled business trips. His claim, in the amount of \$565.77, includes round-trip mileage for the trip between Las Vegas and Albuquerque, one night of lodging, and per diem. The agency disallowed the claim, reasoning that he had not been directed to return early from leave.

### Discussion

The Comptroller General was responsible for settling claims involving expenses incurred by federal civilian employees for official travel and transportation until 1996, when this authority was delegated to the Board. He addressed the issue raised in this claim by establishing a general rule of thumb – if an employee is interrupted while on leave by directions to perform temporary duty at his permanent duty station and is then permitted to resume that leave, the employee is entitled to the travel expenses involved. *See, e.g., Paul P. Magallanes*, B-190646 (Jan. 25, 1978). In its Administrative Instruction Manual System (AIMS), which provides guidance for the incurrence and approval of travel expenses for official business, SSA specifically authorizes the payment of travel expenses when an employee on leave is "directed to return" to his or her permanent duty station and is

subsequently “permitted to resume leave status” at the location where leave was interrupted. In that situation, the employee is entitled to be paid for round trip transportation expenses from the place where leave was interrupted to the permanent duty station and return, as well as applicable per diem expenses. AIMS Guide 07.14.04.G.1.

Here, the critical determinant is whether claimant was “directed” to return to Albuquerque to address the questions raised with respect to his planned trips. He argues that, as a practical matter, since he had not prepared the voucher and had no personal knowledge of what estimated expenses were reflected or how they were derived, he had no choice but to return to the office to address the matters raised in person. He retrieved the message on a weekend and acted immediately to return to Albuquerque rather than wait until Monday, when he could have called his supervisor, because he believed it was the only way to salvage his business trips, particularly the one he intended to commence on July 24. Claimant notes that the fact that it took the better part of two days to iron out the situation only goes to support his assessment that the matter could only be resolved in person. Claimant contends that the rule should be construed broadly enough to encompass circumstances where “a supervisor’s actions leave an employee with no choice if that employee is to fulfill his obligations.”

The agency disagrees, arguing that, regardless of claimant’s assessment of the situation, before incurring leave interruption expenses he was required by the rule to call the office to explore the possibility that the issues could be resolved expeditiously through a call or, at that point, to obtain authorization to return home and then resume his vacation in Las Vegas. Further, the agency notes, claimant’s contention that he had no option but to return to the office in order to fulfill his duty to hold the hearings as scheduled is inaccurate. SSA’s travel rules permit the agency to provisionally deny disputed expenses while approving the rest in order to permit timely travel. The employee may then file a supplemental voucher for the disputed expense after travel is completed. This, SSA maintains, would have been the proper way to proceed.

In response to SSA’s position, claimant notes that the agency itself appears to maintain that any call he would have made about “expense vouchers” would have been ineligible for reimbursement under AIMS Guide 07.20.29, which states that “[t]elephone calls relating to leave of absence, salary checks, expense vouchers, etc. are considered personal business and are not reimbursable.” Thus, he reasons, given the amount of time he spent trying to resolve the matter in person, he would have been out of pocket considerable sums of money to pursue this option had he done so. This, he argues, further supports his contention that he had no viable choice but to return to the office immediately.

Although we recognize that claimant may have felt some concern when he retrieved his supervisor’s voice mail message, we agree with the agency that he elected the wrong

option in these circumstances. The rule clearly requires that the employee be “directed” to interrupt his or her leave to return to the permanent duty station. Nothing in the Chief Administrative Law Judge’s telephone communication suggested that she expected claimant to return to the office to address her questions in person. Claimant’s action, in returning to Albuquerque over the weekend, without waiting to call on Monday to at least attempt to address the questions asked, lacked the prudence that is uniformly required, under the Federal Travel Regulation (FTR), of all employees who incur expenses in connection with official business travel. *See* 41 CFR 301-1.3 (2005).

Moreover, we are not inclined to agree with the parties that had claimant called the office on Monday, the telephone call would have fallen within the ambit of the AIMS guideline’s prohibition of reimbursement of telephone calls for personal business. While SSA may reasonably prohibit reimbursement when an employee, of his or her own volition, initiates a call about expense vouchers relating to completed travel, this does not mean the agency may also refuse to reimburse a telephone call made solely for the purpose of responding to a travel-related question raised by the employee’s supervisor. In such circumstances, the fact that the matter was raised first by the supervisor, prior to authorizing the planned travel, supports the conclusion that a return call should be regarded as related to official business. *See Rachelle A. Boothe*, GSBCA 14713-TRAV, 99-1 BCA ¶ 30,168 (1998); *Eduardo Soto*, GSBCA 16347-RELO, 97-1 BCA ¶ 28,948.

On balance, then, claimant has not demonstrated that the circumstances amounted to a constructive direction to interrupt his leave and return home to resolve, in person, the questions raised by his supervisor. The fact that he spent a good deal of time addressing issues raised once he returned to Albuquerque does not automatically demonstrate that an accommodation could not have been reached had claimant made a bona fide attempt to deal with the matter by telephone. A telephone call to inquire how the Chief Administrative Law Judge wanted to proceed in light of the fact that claimant had not planned to return to the office before commencing travel may well have avoided this whole problem.

#### Decision

The claim is denied.

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CATHERINE B. HYATT  
Administrative Judge

