

Issue: Compliance/Grievance procedure/other; Ruling Date: September 27, 2006; Ruling #2007-1441; Agency: Department of Taxation; Outcome: agency in compliance



***COMMONWEALTH of VIRGINIA***  
***Department of Employment Dispute Resolution***

**COMPLIANCE RULING OF DIRECTOR**

In the matter of Virginia Department of Taxation  
Ruling Number 2007-1441  
September 27, 2006

The grievant has requested a compliance ruling in her May 17, 2006 grievance initiated with the Virginia Department of Taxation (or the agency). The grievant asserts that the agency failed to comply with the grievance procedure when it denied her request for reimbursement for lodging and meal expenses related to her second-step grievance meeting. For the reasons discussed below, this Department concludes that the agency did not violate the grievance procedure by denying the grievant's meal and lodging reimbursement requests.

**FACTS**

The grievant is employed as an Office Service Specialist at the Hampton Roads District Office. On May 17, 2006, she initiated a grievance challenging her alleged non-selection for a Collections Representative position. The grievance advanced to the second-step following this Department's compliance ruling of June 26, 2006.<sup>1</sup> The second-step meeting was set for 1:30 p.m. on August 21, 2006 in Richmond, Virginia. On April 20<sup>th</sup>, the evening before the scheduled meeting, the grievant drove to Richmond, and spent the night in a motel. She asserts that she did this for several reasons. First, she has found the grievance process to be stressful and wanted to avoid the additional stress of having to travel on unfamiliar streets, and aggravation associated with parking. Furthermore, she felt that she needed additional time to relax and read over various manuals in preparation for her meeting.

Prior to her overnight stay, the grievant had sought advance approval for the lodging and meal expenses. The agency had informed her that she would not be eligible for such reimbursement. While the agency did not reimburse the grievant for her lodging and meals, it did grant her a full day of administrative leave in conjunction with the

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<sup>1</sup> EDR Ruling No. 2006-1373. The June 26<sup>th</sup> ruling has no bearing on the instant dispute or outcome of this Ruling.

second-step meeting. In addition, the agency reimbursed the grievant for her mileage and parking.

### DISCUSSION

Section 8.6 of the *Grievance Procedure Manual* addresses the use of administrative leave and reimbursement for expenses related to grievances. That section states that:

Employees are to be granted administrative leave to consult with EDR, to serve as a representative for an employee within the agency, and to appear as a witness in a grievance matter. Employees are also granted administrative leave to participate in the steps of the grievance process. Agencies may grant the employee reasonable time to prepare for the presentation of the grievance.

Reasonable costs for transportation, meals, and lodging are to be reimbursed in accordance with state travel regulations.

The grievant asserts that under this provision she should have been reimbursed for her meals and lodging. The grievant asserts that based on her reading of §8.6, she believed that she would be reimbursed for the lodging and meals, and §8.6 merely stipulated that the reimbursement was limited to a “reasonable” dollar value.

The grievant’s reading of §8.6 is incorrect. Travel expenses are not automatically paid, limited only by dollar amount. Instead, as explained below, whether travel expenses may be reimbursed at all depends on whether the expenditure is “necessary and reasonable.” Under §8.6, travel expenses are to be “reimbursed in accordance with state travel regulations.” The applicable state travel regulation is the Department of Accounts Topic 20335, which states that “The Commonwealth of Virginia will reimburse individuals traveling on official State business for reasonable and necessary expenses incurred.”<sup>2</sup> Topic 20335 further explains that:

Travel expense accounts are open to the public and must be able to sustain the test of public review. When planning and paying for travel, economy, prudence and necessity are of primary concern. The use of State funds to accommodate personal comfort, convenience, and taste is not permitted.<sup>3</sup>

In addition, Topic 20335 states that “Lodging may be reimbursed when an individual is traveling overnight on official business outside his/her official station,” however, it further

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<sup>2</sup> Department of Accounts, Topic 20335, page 4, *Expenses Must be Necessary and Reasonable*.

<sup>3</sup> *Id.*

instructs that “Lodging expense reimbursement varies with the travel destination, but all expenditures must be **necessary and reasonable**.”<sup>4</sup>

Here, where the second-step meeting was set up for 1:30 in the afternoon, it does not appear appropriate to reimburse the grievant for her overnight lodging. Such lodging may have been more convenient for the grievant, but reimbursement for expenditures that accommodate personal comfort and convenience are not permitted under state travel policy. The appropriate test is whether the expenditure is “necessary and reasonable.” Had the meeting been set for the beginning or end of the business day, the grievant would have had a somewhat more persuasive argument that the expense may have been “necessary and reasonable.”<sup>5</sup> Topic 20335 also governs the reimbursement of meal expenses. Under that Topic, “Generally, meals and certain incidental travel expenses are reimbursable on a per diem basis (not actual expenses) for **overnight** official business travel outside the traveler’s official station.”<sup>6</sup> Because an overnight stay was not necessary and reasonable, reimbursement for meals is not available under the grievance procedure. Notably, after the agency denied her advance request for expenses, the grievant incurred lodging and meal expenses anyway, without first using the non-compliance process set forth in the *Grievance Procedure Manual* at §6.3 to attempt to resolve this matter prior to incurring those expenses. In sum, we find that the agency’s denial of reimbursement for lodging and meal expenses did not violate the grievance procedure.

This Department’s rulings on matters of compliance are final and nonappealable.<sup>7</sup>

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Claudia T. Farr  
Director

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<sup>4</sup> *Id.*, at page 15. *Introduction* [Lodging], emphasis added.

<sup>5</sup> We do not mean to imply that an employee is always entitled to a hotel room in conjunction with official grievance activities that occur at the beginning or end of a day. In many such cases, lodging reimbursement would be inappropriate under the applicable policy. Each case is fact specific and the question of whether an expense is properly reimbursed will turn on the specifics of a given case.

<sup>6</sup> Department of Accounts, Topic 20335, page 17, *Introduction* [Meals and Incidental Expenses], emphasis in original.

<sup>7</sup> Va. Code § 2.2-1001 (5).