

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

October 24, 2001

GSBCA 15635-RELO

In the Matter of TROY W. CAVENEE

Troy W. Cavenee, Guadalupe, CA, Claimant.

Justo Galindo, 30th Comptroller Squadron, Department of the Air Force, Vandenberg Air Force Base, CA, appearing for Department of the Air Force.

HYATT, Board Judge.

Claimant, Troy W. Cavenee, a civilian employee of the Department of the Air Force, was transferred from Kirtland Air Force Base in New Mexico to Vandenberg Air Force Base in California in September 2000. Mr. Cavenee's claim concerns repairs that he had made to his personally owned vehicle to register it in California.

In order to register a car, the state of California requires that the vehicle meet certain environmental regulations. Mr. Cavenee's 1984 Plymouth Turismo failed the smog test. Two independent mechanics estimated that it would cost about \$3500 to repair the vehicle sufficiently to pass the test. After obtaining these estimates, Mr. Cavenee called his servicing finance office and relayed what it would cost to register the car in California. He was told to proceed with the repairs and that the costs incurred would be covered under the provision for miscellaneous expenses. The receipts submitted for the work performed are not entirely readable, but appear to reflect various repairs to the engine, replacement of belts, gaskets, and other parts, and replacement of the catalytic converter which was not performing to specifications. Mr. Cavenee has been partially reimbursed for the amount of \$982.92 in miscellaneous expenses, but believes the entire amount of \$3,476.92 should be reimbursed.

When Mr. Cavenee submitted these costs for reimbursement, he was told there was no regulation that would permit reimbursement and that the expenses were too high. The Comptroller's office at Vandenberg Air Force Base, which submitted the claim on Mr. Cavenee's behalf, supports reimbursement since Mr. Cavenee asked for guidance and, apparently, was misled.

Discussion

An employee who is transferred in the interest of the Government is entitled to reimbursement for certain miscellaneous expenses. 5 U.S.C. § 5724(f) (2000). This entitlement is implemented by chapter two, part three, of the Federal Travel Regulation (FTR). The Joint Travel Regulations (JTR), which implement and supplement the FTR for civilian employees of the Department of Defense, provide for payment of a miscellaneous expenses allowance in connection with an authorized permanent change of station. The purpose of the miscellaneous expenses allowance is to defray various contingent costs associated with discontinuing a residence at one location and establishing a residence at a new location. 41 CFR 302-3.1(a) (2000); JTR C9000. The types of costs covered include such items as fees for disconnecting and connecting appliances, cutting and fitting rugs moved from one residence to another, unrefunded utility fees or deposits, forfeiture losses on medical, dental and other non-transferrable contracts, and costs of automobile registration and driver's license. 41 CFR 302-3.1(b); JTR C9000. A transferring employee with an immediate family is automatically entitled to the lesser of \$700 or two weeks basic pay. If additional amounts are justified, miscellaneous expenses may be reimbursed up to a maximum of two weeks basic pay, not to exceed the maximum rate payable for a position at GS-13 of the General Schedule. 5 U.S.C. § 5724(f)(1), (2); 41 CFR 302-3.3; JTR C9004. See generally Samuel G. Baker, GSBCA 15408-RELO, 01-1 BCA ¶ 31,276; John McAveney, GSBCA 15202-RELO, 00-1 BCA ¶ 30,818.

As a general rule, the cost of automobile registration includes fees incurred for license plates and for mandatory inspections and emissions tests. E.g., Genesh C. Bhuyan, B-202906 (Sept. 15, 1982). If there is a requirement imposed by law for the installation of a particular type of pollution control equipment, as is the case in California, this cost may also be included as an allowable item of miscellaneous expense. Joseph T. Grills, 56 Comp. Gen. 53 (1976). The reasoning underlying this exception is that the cost of installing the pollution control device was an integral part of the vehicle registration process in California for an automobile that had previously been registered in another state. John D. Johnson, B-206538 (Sept. 14, 1982). Aside from this type of expenditure, repair work necessary to meet inspection and emissions control requirements, even if those requirements are more stringent in the new state of residence than at the former residence, is not considered to be an eligible item of miscellaneous expense. E.g., Thomas A. Hughes, B-204100 (Aug. 16, 1982) (required to replace windshield to pass inspection at new residence); Joseph A. Pagliasotti, B-163107 (May 18, 1973) (required to replace muffler to pass inspection at new residence).

In this case it is not entirely clear what the nature of the expenses incurred by Mr. Cavenee were. To the extent that the expenditures were repairs to the engine and other parts of the car to lower objectionable emissions, these are not the type of costs considered to be reimbursable under the miscellaneous expense allowance. It appears unlikely that Mr. Cavenee will qualify for much, if anything, in the way of additional monies to offset these costs. It is unfortunate that Mr. Cavenee may have been misled by other Air Force employees in this regard, but it is well settled that the Government is not bound by the erroneous advice of its officials even when the employee has relied on this advice to his detriment. E.g., Lawrence W. Weishoff, GSBCA 15536-RELO, 01-2 BCA ¶ 31,504; John J. Cody, GSBCA 13701-RELO, 97-1 BCA ¶ 28,694 (1996). Accordingly, if special equipment, uniquely required under California law, was installed to make the car eligible

for registration, that expense would be recoverable if not already reflected by the amount paid to date. Otherwise, there is no legal basis for the Air Force to reimburse the costs of repairing this car.

CATHERINE B. HYATT
Board Judge