

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

---

November 15, 2000

---

GSBCA 15324-RELO

In the Matter of GARY L. WHITED

Gary L. Whited, Columbiana, OH, Claimant.

Bonnie Britten, Chief, Travel Policy Division, Office of Administration, Department of Veterans Affairs, Washington, DC, appearing for Department of Veterans Affairs.

**GOODMAN**, Board Judge.

Claimant, Gary L. Whited, is an employee of the Department of Veterans Affairs (VA). In April 1999, claimant was reassigned from the Youngstown VA Outpatient Clinic in Youngstown, Ohio, to the Brecksville VA Medical Center in Brecksville, Ohio. As a result of this reassignment, claimant's daily commute from his residence in Columbiana, Ohio, to his duty station increased. He requested that his agency issue travel orders for a permanent change of station (PCS). The agency refused his request, and claimant requested review by this Board of the agency's decision not to issue travel orders for a PCS.

## Background

The Board docketed claimant's request for review and issued a decision on November 23, 1999. Gary L. Whited, GSBCA 15106-RELO, 00-1 BCA ¶ 30,709. The Board found that claimant had been ordered to perform a PCS, despite his lack of travel orders. The Board ruled:

The employee has accomplished a PCS. Accordingly, the agency should issue travel orders with entitlements to costs incident to a PCS in accordance with statute and regulation.

00-1 BCA at 151,700.

On February 28, 2000, the agency issued travel orders to claimant, authorizing reimbursement of travel expenses incident to his PCS to the new duty station in Brecksville, Ohio. The agency authorized reimbursement of various costs which are incident to a permanent change of station - temporary quarters subsistence expenses, real estate expenses

incident to purchase of a residence, miscellaneous moving expenses, storage of household goods, relocation income tax allowance, a househunting trip, and relocation services.

On May 15, 2000, claimant filed the instant case with this Board. In his request for review, he states that he is seeking:

[M]oving expenses as outlined in the FTR, travel expenses for the difference in commuting distances for the period travel orders were delayed, and compensation for the additional commuting time incurred during the same period. On November 23, 1999, [the Board] ruled in my favor. [The] decision stated: "The employee has accomplished a PCS. Accordingly the agency should issue travel orders with entitlements to costs incident to a PCS move in accordance with statute and regulation." . . .

[After travel orders were issued,] I then submitted a request for the additional travel expenses incurred and additional commuting time during the delay period as requested in the original appeal in August 1999. . . . [T]his request has been denied. [The agency's] response states "You were merely transporting yourself to your assigned duty station." Again, they fail to see the issue. My request is for additional travel expenses, not normal to and from work commuting costs. Likewise, the requested time is for additional commuting time over and above the routine drive to the workplace. These excessive costs and time incurred by myself were not at my asking, but because the agency delayed appropriate travel orders for over ten months due to their failure to interpret basic travel regulations.

Thus, while the agency issued travel orders authorizing reimbursement of moving expenses, claimant seeks additional expenses - overtime and mileage charges incurred prior to the issuance of the travel orders.

The agency responded by letter dated June 19, 2000, which read in relevant part:

Federal employees are required to transport themselves to and from work.

Overtime may not be paid unless work is being performed. Transporting yourself from home to work and return does not constitute hours of work under Fair Labor Standards Act.

While it is true that approval of Mr. Whited's travel authority for permanent change of station was delayed, the fact remains that he continues to live at the same residence. Mr. Whited continues to drive the same distance to and from work by his own choice.

### Discussion

Claimant seeks two elements of cost in this case - overtime and travel expenses. With regard to the claim for overtime, the request has been filed at the wrong forum. The Board's authority to review claims filed by federal civilian employees (and to render advance

decisions at the request of agencies in connection with such claims) is limited to claims for expenses incurred in connection with official travel or relocation. Claims involving federal civilian employees' compensation (including overtime) and leave are reviewed by the Director of the Office of Personnel Management (OPM). 31 U.S.C. § 3702 (Supp. IV 1998); Darrell R. Ratliff, GSBCA 14403-TRAV, 98-2 BCA ¶ 29,760; William H. Goggins, GSBCA 14469-TRAV, 98-2 BCA ¶ 29,842.

As to the claim for travel expenses, claimant seeks charges for mileage and tolls. Our prior decision determined that even though the agency had not issued travel orders for a PCS, claimant had indeed accomplished a PCS, as his official duty station had changed. Claimant was therefore in a situation where he was required to commute from his residence near his prior duty station to his new duty station. Implicit in claimant's request for mileage and tolls was a claim that he would have moved closer to his new duty station to avoid same if he had been authorized to do so.

What claimant seeks in this claim is not costs incident to his PCS move, but travel costs from his old duty station to the vicinity of his new duty station before his PCS was authorized. The agency's position is that federal employees are required to transport themselves to and from work at their own expense. Additionally, since claimant has not moved as of this date, the agency believes that he continues to drive the same distance to and from work at his own choice.

When claimant filed this case, the record did not indicate whether claimant had actually moved his residence after the agency issued travel orders authorizing reimbursement for his PCS. As more than eight months had passed since the agency issued travel orders to claimant authorizing him reimbursement of expenses incident to his PCS move, the Board inquired as to whether claimant had actually moved. Claimant responded that he has not yet moved, even though he states he had and continues to have an intent to move. One of the reasons stated by claimant for not having moved is the continuing possibility of accepting a buy-out, if one becomes available. However, claimant states this will not be an option for him if he has moved at Government expense within two years of the buy-out.

While claimant continues to assess his options, his current commute from his residence to his new duty station is no different than the commute from his same residence to his new duty station for the period before he was issued PCS orders. For more than eight months, claimant has continued to treat the distance from his residence to his new duty station as a commutable distance, has not put his home on the market, and has not availed himself of the options available to him to accomplish a change of residence closer to his new duty station. As claimant chooses to continue to commute from his residence now, even though he has the authority to accomplish a PCS move, we find no basis to award him the costs he seeks for mileage and tolls prior to the issuance of his PCS orders.

### Decision

The claim is denied.

---

ALLAN H. GOODMAN  
Board Judge