

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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May 31, 2001

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GSBCA 15414-RELO

In the Matter of MARGARET A. JOHNSON

Margaret A. Johnson, Winchester, VA, Claimant.

Robert M. D'Errico, Director, Resource Management, Transatlantic Programs Center, United States Army Corps of Engineers, Winchester, VA, appearing for Department of the Army.

NEILL, Board Judge.

This decision is in response to a request for our opinion pursuant to section 3529 of title 31 of the United States Code. It comes to us from the director of resource management for the Transatlantic Programs Center of the United States Army Corps of Engineers. He seeks guidance regarding payment for the shipment of an employee's personally owned vehicle (POV) from Alaska to Virginia. For the reasons stated below, we conclude that shipment may not be authorized.

## Background

The vehicle in question is owned by Mrs. Margaret A. Johnson, a civilian employee of the Corps. In mid-1999, Mrs. Johnson, a resident of Alaska, was hired for a position in one of the Corps' overseas field offices in Egypt. At the time she was hired by the Corps, Mrs. Johnson was already in the permanent employ of the Federal Government. She had entered the Government's workforce as a resident of Alaska and even then possessed her own car.

Although Mrs. Johnson was authorized permanent change of station (PCS) expenses for her transfer to Egypt, the Corps did not authorize shipment of her POV. We are told that it is not the policy of the Corps to authorize shipment of POVs for civilian employees stationed in Egypt. Furthermore, it was the apparent intention of Mrs. Johnson to return to her prior Government position in Alaska following the conclusion of this overseas tour in Egypt.

In late spring of 2000, after Mrs. Johnson had settled in at her new post of duty in Egypt, the Corps reassigned her temporarily to its headquarters for the Transatlantic

Programs Center in Winchester, Virginia. It was subsequently determined that she could not return to Egypt. She was, therefore, offered a permanent position at the Programs Center where she would have duties and responsibilities equivalent to those assigned to her while at her former post in Egypt. She accepted the position.

Shortly thereafter, on July 19, 2000, Mrs. Johnson requested approval for shipment at Government expense of her POV from Alaska to Winchester, Virginia. After examining the Department of Defense Joint Travel Regulations (JTR), agency officials concluded that these regulations do not cover a situation such as that presented in Mrs. Johnson's request. We have been asked for our opinion on the matter.

### Discussion

The statute dealing with the transportation of motor vehicles belonging to Government employees provides in part:

(a) Except as specifically authorized by statute, an authorization in a statute or regulation to transport the effects of an employee or other individual at Government expense is not an authorization to transport an automobile.

(b) Under regulations prescribed under section 5738 of this title [by the Administrator of General Services] the privately owned motor vehicle of an employee . . . may be transported at Government expense to, from, and between the continental United States and a post of duty outside the continental United States, or between posts of duty outside the continental United States, when -

(1) the employee is assigned to the post of duty for other than temporary duty; and

(2) the head of the agency concerned determines that it is in the interest of the Government for the employee to have the use of a motor vehicle at the post of duty.

5 U.S.C. § 5727 (1994 & Supp. V 1999).

The Administrator of General Services has issued regulations implementing this statute. They are found in the Federal Travel Regulation (FTR). 41 CFR pt. 302-10 (1999) (FTR pt. 302-10). These regulations apply to all Government employees. For civilian employees of the Department of Defense, such as Mrs. Johnson, these regulations are further explained and supplemented in the department's Joint Travel Regulations (JTR). JTR ch. 11.

The FTR envisions only a limited number of situations in which an employee's POV may be shipped to an employee's official station, namely:

An agency may authorize transportation of a POV *to* a post of duty outside the continental United States (OCONUS)<sup>1</sup>;

An agency may authorize transportation of a POV *from* an OCONUS post of duty;

An agency may authorize transportation of a POV wholly within CONUS.

See FTR 302-10.6. For shipment of a POV either to or from an OCONUS post of duty, two basic requirements must be met. The first is that a determination be made that it is in the interest of the Government for the employee to have use of his or her POV at the post of duty. The second is that the employee sign a service agreement. Id. 302-10.140, -10.202. For shipments within CONUS, the agency must determine instead whether transportation of the POV is cost-effective as compared to reimbursement of the employee for the cost of traveling to the new duty station in his or her POV. Id. 302-10.505.

The Corps official seeking our opinion in this matter advises us that a thorough review has been made of the JTR provisions relating to the shipment of an employee's POV, but that these provisions were found to be "ambiguous on some of the circumstances that might be relevant to this case." On review of these provisions in the light of the specific facts of this case, we agree with this assessment. More promising in this regard are the provisions in the FTR -- to which the claimant, as a Government employee, is also subject.

The FTR provisions regarding transportation of an employee's POV primarily focus on shipment of the POV to the new duty station of a transferred employee from the employee's prior duty station or -- in the case of a newly appointed employee -- from the employee's actual place of residence. Had a determination been made that it was in the Government's interest for Mrs. Johnson to have her POV in Egypt, then shipment of her POV from an OCONUS post of duty in Egypt to a CONUS duty station in Winchester, Virginia, would have been covered clearly by regulation. Such, however, was not the case. Instead, her POV was left behind in Alaska at a non-foreign OCONUS post of duty.

The precise issue before us, therefore, is whether an employee transferred to a CONUS duty station from an OCONUS post of duty where a POV was not authorized, may have her POV shipped at Government expense from a prior OCONUS duty station where she did in fact have use of her POV. What we are dealing with here is what the FTR refers to as the "authorized point of origin" for shipment of a POV from an employee's OCONUS post of duty.

The FTR recognizes two situations where the point of origin may be different from the location of the employee's immediately prior post of duty. One is where the vehicle has

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<sup>1</sup>OCONUS means outside the 48 contiguous states and the District of Columbia. See FTR 302-1.4(a). The section of the FTR dealing with the transportation of an employee's POV consistently uses the term "post of duty" when referring to an employee's official OCONUS duty station. See id. 302-10.3.

simply been taken elsewhere. In such situations, the Government will pay for the transport of the POV but in an amount no greater than what the cost would have been had the shipment been made from the authorized point of origin. FTR 302-10.207. The second situation is where the employee was not authorized to have a vehicle at the post of duty from which he or she is currently being transferred but was authorized to have a POV at a prior post of duty. In such cases, the authorized point of origin for shipment of the POV is the last post of duty to which the employee was authorized to transport his or her POV at Government expense. Id. 302-10.205.

This last situation described in the FTR, while analogous to that of Mrs. Johnson, is far from a perfect fit. Granted, she was not authorized to transport her POV to her last post of duty and did have use of her POV while at the post of duty to which she was assigned before being transferred to Egypt. Here, however, the similarity stops. Mrs. Johnson was never authorized to ship her POV to her former post of duty in Alaska. Rather, we are told that she was hired locally for her first Government position in Alaska and possessed her automobile even before starting to work for the Government.

Among the FTR provisions dealing with transportation of an employee's POV, therefore, there is clearly no provision authorizing shipment of Mrs. Johnson's POV from her earlier post of duty in Alaska to her present duty station in CONUS. Neither is it surprising, therefore, that the JTR do not cover a situation such as hers. Herein, in our opinion, can be found the solution to the Corps' quandary. As already noted, the statute relating to the transport of motor vehicles belonging to Government employees unequivocally states that, except as specifically authorized by statute, an authorization in statute or regulation to transport the effects of an employee or other individual at Government expense is not an authorization to transport an automobile. Instead, the same statute provides that the privately owned vehicle of an employee may be transported at Government expense pursuant to regulations issued by the Administrator of General Services. If regulations issued by the Administrator do not cover a situation such as Mrs. Johnson's, then the simple answer to her request is that it must be denied. See Brian P. Garriffa, GSBCA 13798-RELO, 97-2 BCA ¶ 29,033 (concluding that the cost of shipping a POV should be denied in absence of regulatory authority permitting agency to pay for shipment of POV from Alaska to San Antonio where employee had not been transferred to Alaska by Government and had purchased his vehicle in Alaska after moving there).

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EDWIN B. NEILL  
Board Judge