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

October 9, 2002

GSBCA 15854-TRAV

In the Matter of JONATHAN KAPLAN

Jonathan Kaplan, Darnestown, MD, Claimant.

Gerald K. Schoenauer, Director, Office of Financial Services, Federal Railroad Administration, Washington, DC, appearing for Department of Transportation.

NEILL, Board Judge.

Claimant, Mr. Jonathan Kaplan, is an employee of the Federal Railroad Administration. He asks that we review a decision by his agency denying him the cost of travel from the local airport to his home. For the reasons set out below, we conclude that he is entitled to the payment.

Background

On December 20, 2001, Mr. Kaplan traveled from Baltimore-Washington International Airport to St. Louis, Missouri, on official business. He chose to use his own privately-owned vehicle (POV) to travel the distance between his home in Darnestown, Maryland, and the Baltimore-Washington International Airport. His vehicle, however, broke down at the airport garage. On return from St. Louis, Mr. Kaplan was obliged to have the vehicle towed to a service station near his residence. The tow truck then delivered him to his home.

Mr. Kaplan did not seek reimbursement for the cost of having his vehicle towed from the airport but did ask to be paid $34.50 for round-trip mileage between his home and the airport. Because Mr. Kaplan did not use his car to return to his home, the agency approved payment of only half the amount requested. Claimant argues that, under section 301-10.2 of the Federal Travel Regulation (FTR), a mileage allowance is an acceptable form of payment for transportation expenses. Further, he contends that, under the statute authorizing reimbursement for mileage, it is clear that the per-mile allowance is not based upon the actual expense of operation but rather on a rate established by the Administrator of General Services. See 5 U.S.C. § 5704 (2000). This rate is said to be based upon estimates of both operational and incidental costs. See id. § 5707(b)(1)(B). Mr. Kaplan points out that his car, in being towed behind the tow truck from the airport, was subject to wear and tear – one

of the component costs considered by the Administrator in determining the mileage rate. Accordingly, he believes that he is entitled to reimbursement at the prescribed rate for the full round-trip mileage between his house and the airport.

The agency, in reviewing the statutes and regulations cited by the claimant, insists that they are all based upon the fundamental assumption that the vehicle in question is being *used* by the employee – something which did not occur on the evening Mr. Kaplan returned home from the airport aboard a tow truck.

Discussion

Rather than split hairs over the component costs of approved mileage rates for employees using their own POVs, we consider that the problem raised in this case is better addressed in terms of the general authorization in the FTR for an employee traveling between a common carrier or other terminal and his or her home. Under 41 CFR 301-10.420(b)(1)(i) (2001) (FTR 301-10.420(b)(1)(i)) there is a general authorization of reimbursement for the cost of a fare plus tip for the use of a taxicab or shuttle service when an employee is traveling between a common carrier or other terminal and his or her home. If the employee elects to use a POV rather than a taxicab or shuttle, then the reimbursement cannot exceed the constructive cost of the taxicab or shuttle. Id. 301-10.402.

One of the obvious purposes of this general authorization is to ensure that federal employees engaged in out-of-town temporary duty (TDY) travel will be reimbursed for the cost of travel between their homes and common carrier terminals from which they depart or to which they return when on TDY travel. The typical special conveyance normally used for this local travel is, of course, a taxicab, shuttle, or one's POV. When circumstances dictate the need to the use some other form of special conveyance, however, we hardly deem it fair, given this general authorization, that an employee should be deemed as no longer qualifying for coverage under this provision.

In this case, although the claimant was entitled under this general authorization to return home from the airport in a taxicab once it became clear that his POV was no longer operational, he nevertheless chose instead to accompany his vehicle personally and to return to his home in the tow truck. Mr. Kaplan is not seeking here to be paid the total cost of towing his vehicle or even the constructive cost of returning home from the airport in a taxi. Rather, in view of his earlier decision to go to and from the airport in his POV, he is accepting as the reimbursement cap for his actual costs of returning from the airport the reimbursement he would otherwise have received had he been able to use his POV for the return trip – an amount which is considerably less than the constructive cost of a taxi fare and tip. He seeks only $17.25 (fifty miles at $0.345 per mile). Taxi fare and a tip for a trip of this length would undoubtedly have cost considerably more. Under the circumstances, we consider this a reasonable claim and one which the agency should pay given the general authorization in FTR 301-10.420(b)(1)(i).

EDWIN B. NEILL
Board Judge