

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

June 9, 2003

GSBCA 16077-TRAV

In the Matter of KARL R. OROZ

Karl R. Oroz, Norcross, GA, Claimant.

Willis C. Hunter, Office of Legal Counsel, Federal Law Enforcement Training Center, Glynco, GA, appearing for Department of the Treasury.

BORWICK, Board Judge.

Claimant is not entitled to temporary duty (TDY) travel using his privately-owned vehicle (POV) between his temporary residence near his duty station and his permanent residence 322 miles away because such travel was not for official business. Claimant is not entitled to be reimbursed the added cost of a train ticket between Frankfurt, Germany, and Budapest, Hungary, because the train trip was not authorized by the agency.

Background

Claimant was a retired annuitant employed by the Department of the Treasury at the Federal Law Enforcement Training Center (FLETC), Financial Fraud Institute (FFI). According to claimant's supervisor, claimant informed her that he was residing in a condominium on St. Simons Island, near Glynco/Brunswick, Georgia, but that as he was a temporary employee he decided to leave his family at his permanent residence in Norcross, Georgia, a suburb of Atlanta, Georgia. On most weekends, claimant drove to Norcross from Glynco to be with his family. Norcross is about 322 miles from Brunswick and about 30.24 miles from the Atlanta airport. See <http://www.mapquest.com> (last visited on June 3, 2003).

When traveling, most FLETC employees use the Glynco airport and travel to that airport from their residences. However, because of claimant's particular living arrangements, claimant's supervisor agreed to let claimant start and end all official travel for the FFI division from claimant's Norcross residence. Claimant denies the existence of a formal agreement to that effect, but does not deny the existence of an understanding between claimant and the agency that claimant's travel should start at Norcross and not at Glynco.

The commercial airline serving Glynco had four flights from the Glynco airport to the airline's hub in Atlanta. According to the agency, it made good sense to authorize

claimant to commence his travel from Norcross, rather than forcing him to drive the 322 miles to Brunswick and to stop in Atlanta in any event.

Claimant states that he adjusted his travel to normally depart Glynco on a Friday evening and embark on official travel from Atlanta on the Sunday or Monday following. The purpose of claimant's trips from Glynco to Norcross in his POV was, in claimant's words, to "spend some family time."

On October 9, 2002, the agency authorized claimant to travel between Norcross, Georgia, and Quantico, Virginia, from October 15 through October 17. Upon claimant's return to his office, claimant submitted a travel voucher which included \$86.40 as the alleged POV mileage expense for driving 288 miles between Glynco and the Atlanta Airport. On October 8, 2002, the agency authorized claimant's round-trip TDY travel between Norcross, Georgia, and Quantico, Virginia, from October 21 through October 23. Claimant flew to Washington, D.C., from the Atlanta Airport. Again, upon claimant's return to his office, claimant submitted a travel voucher which included \$86.40 as the alleged POV mileage expense for driving 288 miles between Glynco and the Atlanta airport.

On October 18, 2002, the agency authorized claimant's round-trip TDY between Norcross, Georgia, and Budapest, Hungary (with an intermediate stop in Garborone, Botswana). As before, upon his return to his office, claimant submitted a travel voucher which included the \$86.40 for the alleged POV mileage expense between Glynco and the Atlanta airport.

Claimant's trip overseas involved a circuitous airline route from the continental United States to the continents of Africa and Europe. The European leg of claimant's trip included a flight from Frankfurt, Germany, to Budapest, Hungary. The agency had purchased a non-refundable ticket for claimant based upon a through fare,¹ with the Government paying for the ticket. Before taking the trip, claimant says he discussed with a branch chief and one of his colleagues in the agency's International Programs Division (IPD) the possibility of interrupting his airline flight with train travel, but those individuals were non-committal. Claimant's immediate supervisor at FFI states that she warned claimant not to change the itinerary the IPD had established.

Nevertheless, claimant canceled the airline ticket for the Frankfurt-Budapest leg of his trip, without knowing that the agency had purchased a non-refundable ticket. Also, with his own funds, claimant purchased a train ticket from Frankfurt to Budapest for \$231. When claimant landed in Frankfurt, he took the train to Budapest. Upon claimant's return, when submitting his voucher for the overseas trip, claimant sought reimbursement of the \$231 he had paid for the train trip.

Discussion

Automobile trips from Glynco to Norcross

¹ A "through fare" is the fare to a destination reached by traveling through a gateway city.

Claimant seeks reimbursement for automobile mileage between Glynco and the Atlanta airport for each of the three trips he took from the Atlanta airport. Claimant, however, did not actually drive his POV from Glynco to the Atlanta airport on the first day of the trips. Instead, he used his POV to commute to his family residence in Norcross, Georgia, for the weekend to "spend some family time" before flying from the Atlanta airport on the first workday following the weekend. Nevertheless, relying on Federal Travel Regulation (FTR) 301-70.105, 41 CFR 301-70.105 (2002), claimant seeks the automobile mileage as the "constructive cost" of "official travel" between Glynco and Atlanta.

Statute provides that an employee is entitled to per diem and subsistence expenses when the employee is "traveling on official business away from the employee's designated post of duty." 5 U.S.C. § 5702(a) (2000). The implementing FTR provides that an employee is eligible for a travel allowance when the employee "perform[s] official travel away from [his/her] official duty station or other areas defined by [the] agency." 41 CFR 301-11.1(a).

Here, claimant's employment was temporary and claimant maintained two residences: a permanent family residence and a distant part-time residence near claimant's official duty station. Claimant normally visited his family in Norcross on weekends. Additionally, in light of claimant's particular and unique employment and residential circumstances, claimant and the agency reached an understanding that Norcross was to be the starting point for claimant's TDY travels. Consequently, for the three trips involved here, the agency reasonably established Norcross as the commencement point for claimant's official duty travel. It is fundamental that an employee must have authorization to travel before incurring a reimbursable travel expense. 41 CFR 301-2.1; Jerry M. Hopkins, GSBCA 14850-TRAV, 99-2 BCA ¶ 30,435; Ronald H. Milligan, GSBCA 13702-TRAV, 97-1 BCA ¶ 28,713. Claimant lacked authorization to perform official travel between Glynco and Norcross, Georgia. Claimant says that after the fact a superior authorized the expense, but the record contains no travel authorizations or amended authorizations changing the commencement point of his trips from Norcross to Glynco. The fact that claimant would have had to pass through the Atlanta airport had the agency authorized claimant to fly from Glynco is of no consequence, since the agency had not authorized claimant to travel on TDY between Glynco and Atlanta.

Claimant relies on 41 CFR 301-70.105 as grounds for his entitlement, but his reliance is misplaced. That portion of the FTR tells an agency that if the employee elects to use a POV instead of an alternate form of transportation that the agency authorizes, then the agency must pay the constructive cost of the authorized method of transportation. Here, however, as we have seen, the agency for good reasons did not authorize claimant to perform official travel between Glynco and Atlanta for the three trips at issue here. For each of the trips, the designated commencement point was claimant's family residence at Norcross, Georgia.

Claimant's argument that he was on official travel between Glynco and Atlanta is unpersuasive, since his commute between Glynco and Norcross before each of the three trips seems to have been a continuation of his regular practice of visiting his family on weekends. Claimant has not established that, but for the travel authorizations, he would have stayed in

Glynco for those weekends. It is also significant that claimant had the opportunity before commencement of his TDY to object to the agency's designation of Norcross as the origin point for his TDY but apparently did not object. We agree with the agency that given all of the circumstances above, claimant's travel to his family residence on those particular weekends was of a personal, not an official, nature. See Leo Bosner, GSBCA 15855-TRAV (Mar. 28, 2003) (employee who stayed extra night with friends at TDY station for personal reasons not in TDY status on evening he incurred claimed lodging expense). Claimant was not engaged in official travel when he commuted from Glynco to Norcross, so he is not entitled to POV mileage for those trips.

The train trip

Claimant is not entitled to the extra \$231 it cost him for the train trip. Claimant maintains he saved the Government \$373 because the Government did not have to pay the \$604 cost of a flight from Frankfurt to Budapest and only has to pay the \$231 cost of a train ticket between those cities. The Government, however, forfeited the unused fare and therefore saved nothing by claimant's taking the train. When an employee travels by other than the method of transportation required by regulation or selected by the agency, the employee must bear any additional expenses incurred. 41 CFR 301-10.6. Here, since the agency forfeited the Frankfurt-Budapest cost of the ticket, the \$231 is an extra expense to be borne by claimant.

Additional matter

Claimant complains about lack of payment for a fourth trip referenced in voucher number 3S077. The agency, after a delay, paid claimant almost all amounts claimed for that trip. There was a discrepancy of \$2.88 due to change in POV mileage rate from \$.365 to \$.36, which change was effective the day claimant took his trip. Claimant has not established he is entitled to the \$2.88.

Decision

The Board denies the claim.

ANTHONY S. BORWICK
Board Judge