

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

February 11, 2005

GSBCA 16525-TRAV

In the Matter of WILLIAM T. COWAN, JR.

William T. Cowan, Jr., Hampton, GA, Claimant.

J. Stephen Koons, Assistant Deputy Chief of Staff, Headquarters, United States Army Command, Fort McPherson, GA, appearing for Department of the Army.

BORWICK, Board Judge.

Claimant William T. Cowan, Jr., as authorized in advance by the Department of the Army, agency, used his privately-owned vehicle (POV) to travel on official business from his residence in Hampton, Georgia, to a conference in San Antonio, Texas. Nevertheless, the agency denied claimant reimbursement of the per diem allowance -- \$131.57--for two days of travel made necessary through his use of the POV. Claimant submitted a claim to this Board contesting the agency's denial. We grant the claim, as the agency's actions violated the Joint Travel Regulations (JTR) and the terms and conditions of the agency's valid travel authorization.

Background

The agency sent claimant on a trip from his permanent duty station, Atlanta, Georgia, to San Antonio, Texas. The agency had contemplated claimant's leaving his residence in Hampton, Georgia, on July 19, 2004, traveling by air, and returning to his residence on July 23, 2004.

Claimant, however decided he wanted to drive to the conference. The agency, before the trip, issued a travel order authorizing claimant to leave his Hampton, Georgia, residence on July 17 and to return on July 25. In the authorization, the agency granted claimant the right to use his automobile to travel to the conference, although the agency by mistake estimated the one-way mileage cost as \$372.75 instead of making a round-trip mileage estimate of \$745.50.

Claimant drove directly from Hampton to San Antonio and directly back to Hampton on his return trip. Claimant stayed one night in Baton Rouge, Louisiana, on his way to San Antonio, and one night in Slidell, Louisiana, returning from San Antonio.

There is no suggestion in the record that the route was for any purpose other than traveling to and from his temporary duty station by car. Claimant drove 1037 miles to San Antonio from Hampton and 1014 miles back to Hampton, for a total of 2051 miles.

Upon claimant's return, he submitted a voucher; the agency paid claimant \$1538.15. Claimant says the constructive cost of his trip was \$1669.72, and that the agency owes claimant an additional \$131.57. The agency says that the \$131.57 reflects the cost of claimant's travel by POV on July 17 and July 25, days of travel not necessary to the agency mission and outside of the originally contemplated travel period of July 19 through July 23. The agency, however, granted claimant his POV mileage, admitting that the "TDY [temporary duty] travel period authorized [claimant] reimbursement [of] . . . roundtrip POC [privately-owned conveyance] mileage (2,051 miles) at 37.5 cents per mile."

Discussion

Under the JTR use of a POV may be authorized and approved for travelers performing official business. JTR C2150-1. POV travel may be authorized for the employee's convenience when requested by the employee. JTR C2150-2. When an agency authorizes an employee's use of a POV, the mileage rates in JTR C2500 are used. Having admitted that it authorized claimant's use of the POV in advance, the agency properly used the specified mileage rate of 37.5 cents per mile in calculating claimant's transportation allowance.

An employee may not be prohibited from using a POV on official travel. If an employee elects to use a POV "instead of the transportation mode authorized," reimbursement must be limited to the constructive cost of the authorized transportation mode, which "is the sum of per diem and transportation expenses the employee would reasonably have incurred when traveling by the authorized transportation mode." JTR C2150-8(a). Here, the transportation mode authorized was claimant's POV. Significantly, in this case the travel authorization did not authorize travel by air, with claimant being limited to the constructive cost of traveling by air, should he chose to use a POV. If such was the agency's intent, it was nowhere indicated on the order.

The travel authorization is a record of vested travel entitlements and may not be administratively altered after the fact to increase or decrease benefits in the absence of clear error. Andre Long, GSBCA 14498-TRAV, 98-1 BCA ¶ 29,731. The agency knew before the trip that claimant would need two additional days to travel between Hampton and San Antonio by using his POV instead of flying. The agency agreed to those days in claimant's travel authorization and has even agreed to pay his POV mileage for the trip. In short, the agency has agreed that the travel authorization was valid and not erroneous in authorizing the use of the POV and dates of travel. The agency may not now reduce his entitlement and refuse to pay the \$131.57 for travel on July 17 and July 25. Lewis T. Moore, GSBCA 14885-TRAV, 99-1 BCA ¶ 30,374 (having authorized employee to travel by train between two points, agency may not reduce per diem as if he had used a plane). The Board grants the claim and claimant is entitled to an additional payment of \$131.57.

ANTHONY S. BORWICK

Board Judge