



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 21, 2008

CBCA 1288-RELO

In the Matter of MELVIN J. GIDDINGS, JR.

Melvin J. Giddings, Jr., Homestead, FL, Claimant.

Kenneth W. Lambert, Financial Services Officer, Homestead Air Reserve Station, Air Force Reserve Command, Homestead Air Reserve Base, FL, appearing for Department of the Air Force.

DANIELS, Board Judge (Chairman).

The Department of the Air Force transferred Melvin J. Giddings, Jr., from Beale Air Force Base in California to Homestead Air Reserve Base in Florida. Mr. Giddings drove his privately owned automobile from California to Florida in October 2007 and reported for duty at Homestead on or about October 28. Later, in May 2008, he returned to California, flew his privately owned airplane from there to Mississippi, and drove from Mississippi back to Florida. Mr. Giddings claims reimbursement as a cost of relocation, at per-mile rates, for his flight to Mississippi and drive from there to Florida. The Air Force insists that he is entitled only to reimbursement, at per-mile rates, for driving from California to Florida. The parties agree that Mr. Giddings may receive reimbursement for only one of the two trips.

The orders the Air Force issued to Mr. Giddings for the move to his new permanent duty station are confusing. On page 1 of the orders, in the box entitled "Transportation Mode," the agency checked "commercial," but not "government," and both "POC" (privately owned conveyance) and "air," but not "rail." On page 2, the agency authorized ten travel days and checked the box for "POV [privately owned vehicle] travel will be reimbursed at the actual travel time or at an average distance of 350 miles per calendar day of the official distance (old to new duty location), whichever is less."

The term “conveyance,” as used in the travel orders, is synonymous with “vehicle.” *Webster’s Third New International Dictionary* 499, 2538 (1986). A “vehicle” is “a means of carrying or transporting something.” *Webster’s* at 2538. A person may of course be transported in an airplane or an automobile. See Federal Travel Regulation (FTR), 41 CFR 301-10.303 (2007) (including, as POVs, aircraft, airplanes, automobiles, and motorcycles); Joint Travel Regulations (JTR) app. A1 (defining a POC as “[a]ny transportation mode used for the movement of persons from place to place, other than a Government conveyance or common carrier”). The Air Force’s checking of boxes for “POC” and “air” on page one of the orders may be read to authorize travel by privately owned airplane. On the other hand, the agency’s authorization on page two of ten travel days and an average distance of 350 miles per day appears to envision travel by automobile -- no airplane would move so slowly.

As the FTR makes clear, whether the travel orders authorize travel by airplane or automobile makes no difference. The regulation states:

For approved/authorized PCS [permanent change of station] travel by POV in CONUS [the continental United States], the mileage reimbursement rate is the same as the moving expense standard mileage rate established by the Internal Revenue Service (IRS) for moving expense deductions. . . . GSA [the General Services Administration] will publish the rate for mileage reimbursement in an FTR Bulletin.

41 CFR 302-4.300.¹ This provision establishes a single mileage reimbursement rate for travel by all kinds of vehicles; it does not distinguish in any way between travel by automobile and travel by airplane.

The IRS established a mileage rate of twenty cents per mile for travel by car for a move in 2007 which was related to the start of work at a new job location. I.R.S. Pub. 521 at 7 (for use in preparing 2007 returns). GSA subsequently published a mileage reimbursement rate of twenty cents per mile for using a POV -- any POV -- for relocation

¹ The provision quoted here was promulgated in the Federal Register of June 27, 2007. 72 Fed. Reg. 35,187 (June 27, 2007). It became effective on September 25, 2007, prior to the date on which Mr. Giddings reported to his new duty station in Florida. It therefore applies to his transfer. 41 CFR 302-2.3.

between September 25, 2007, and January 1, 2008. *See* GSA website, <http://www.gsa.gov>. That is the rate at which Mr. Giddings should be reimbursed for his travel between duty stations in California and Florida.

It is true that the FTR establishes different per-mile reimbursement rates for the use of privately owned airplanes and privately owned automobiles. Those rates are for the use of those vehicles by employees on temporary duty travel, however -- not by employees who are traveling for the purpose of making a permanent change of duty station. 41 CFR 301-10.303. The reimbursement rates for the latter kind of travel are as described above.

STEPHEN M. DANIELS
Board Judge