



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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May 30, 2012

CBCA 2781-TRAV

In the Matter of ORLANDO SUTTON

Orlando Sutton, Huger, SC, Claimant.

Thelma Strong, Acting Chief Financial Officer, Forest Service, Department of Agriculture, Washington, DC, appearing for Department of Agriculture.

**SHERIDAN**, Board Judge.

Claimant is not entitled to be reimbursed for privately-owned vehicle (POV) mileage from his residence to the official duty station for the purpose of obtaining a government-owned vehicle (GOV).

Background

Claimant, Orlando Sutton, is a civilian employee of the Forest Service (FS) in the Francis Marion Ranger District located in Huger, South Carolina. Claimant is a district ranger whose residence is in Mount Pleasant, South Carolina. On Saturday, February 4, 2012, claimant drove his POV from his residence approximately thirty-eight miles to his official duty station, the ranger district office in Huger. At his official duty station, claimant picked up a GOV and drove that vehicle to the Francis Marion National Forest, where he worked picking up litter with state, county, and community volunteers.

Claimant seeks a payment of \$34.38 as reimbursement for the the mileage expenses incurred while traveling from his residence to his official duty station and back. To justify compensation, claimant argues that the mileage was incurred on a day different from his

normal commuting days (Monday through Friday) and he was reimbursed for similar events held during the past six years.

The agency responds that Saturday, February 4, 2012, was claimant's scheduled work day. The agency cites guidance given in a memorandum of September 2, 2009, issued by the Acting Forest Supervisor:

Based on an answer from the Albuquerque Service Center - Travel Unit, an employee is not entitled to POV mileage reimbursement for driving from home to the official duty station on a scheduled work day to pick up a GOV for official travel. However, if an employee has to come to the office on a non-work day (normally Saturday or Sunday) for the sole purpose of picking up a GOV for official travel, then they are entitled to mileage reimbursement. The entitlement is based on the potential out of pocket expenses an employee may have that are not connected to the normal expense of going to work on scheduled work days. A Federal agency, per Comptroller General ruling, may not reimburse (or give the appearance that they are reimbursing) employees for local travel costs incurred solely from the employee's residence to their permanent duty station.

The agency also references the FS Handbook, which provides:

**301-10-306 - What will I be reimbursed if authorized to use a Private Owned Vehicle (POV) between my residence and office and then from my office to common carrier terminal, or from my office to common carrier terminal, or from my residence directly to a common carrier terminal?**

If the traveler stops at their office or duty station en route to the TDY location or common carrier termination, mileage reimbursement begins from the office or duty station. The reason or duration of time for stopping is not a factor.

### **301-51 - Paying Travel Expenses**

There is one situation where the agency is precluded from providing local travel reimbursement to employees. A Federal agency, per Comptroller General ruling, may not reimburse (or give the appearance that they are reimbursing) employees for local travel costs incurred solely from the employee's residence to their permanent duty station, unless the employee is

participating in the Public Transportation Benefit Program sponsored by the Federal Government. The authority under this program is unique and should not be interpreted as a basis for reimbursing employees for home to work travel costs.

### Discussion

The statute that authorizes reimbursement for mileage expenses, 5 U.S.C. § 5704 (2006), provides that reimbursement is available only when employees are “on official business for the Government.”

It is a longstanding rule that because an employee’s daily commute between his home and his office is personal, not official government business, agencies may not reimburse an employee for mileage expenses incurred when commuting. *Jerry R. Teter*, GSBCA 15292-TRAV, 00-2 BCA ¶ 30,957; *Leon Rodgers, Jr.*, GSBCA 14678-TRAV, 99-1 BCA ¶ 30,376; *John B. Courtney*, GSBCA 14508-TRAV, 98-2 BCA ¶ 29,791; *Freddie G. Fenton*, GSBCA 13638-TRAV, 97-1 BCA ¶ 28,712 (1996); *Guenther Moehrke*, B-252142 (July 6, 1993); *Carl R. Leonard*, B-226795 (Aug. 20, 1987); *Richard H. Foster*, B-202370 (Apr. 2, 1984); *Lloyd Chynoweth*, B-203978 (Mar. 11, 1982); 15 Comp. Gen. 342 (1935). An employee’s commute is not restricted to ten round trips on weekdays between the employee’s residence and official duty station; employees can incur transportation costs for commuting on any day of the week, as well as for performing overtime emergency, or call-back work. *Anthony Milano*, GSBCA 15655-TRAV, 02-1 BCA ¶ 31,695 (2001); *Leon Rodgers Jr.*; *George F. Clark*, B-190071 (May 1, 1978); 36 Comp. Gen. 450 (1956).

The agency states that the day the mileage was incurred was claimant’s scheduled work day. The Board presumes claimant was paid for the day’s work. While it was a Saturday, in all other ways it was a normal commuting day.

Claimant avers that the FS paid for his mileage for similar events held during the past six years. Even if claimant is correct, the FS’ past actions would not justify making another such payment. We conclude that claimant is not entitled to be reimbursed because the mileage was incurred while he was commuting to his official duty station on a scheduled work day.

Decision

The claim is denied.

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PATRICIA J. SHERIDAN  
Board Judge