



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

August 8, 2012

CBCA 2823-TRAV

In the Matter of ORLANDO SUTTON

Orlando Sutton, Huger, SC, Claimant.

Pamela Scalco, Travel Branch Chief, Albuquerque Service Center, Forest Service, Department of Agriculture, Albuquerque, NM, appearing for Department of Agriculture.

WALTERS, Board Judge.

The Government is responsible for reimbursing an employee for costs of transportation by personally owned vehicle (POV) between his home and his official duty station to retrieve and drop off a Government owned vehicle (GOV) used in conjunction with properly authorized temporary duty (TDY) travel.

Background

Claimant, Orlando Sutton, is a district ranger for the Forest Service's (FS) Francis Marion Ranger District in Huger, South Carolina. The agency issued travel orders to him for overnight TDY travel for two separate trips in March 2012 to attend FS team meetings – on March 12-15 and March 20-21. The orders in both instances specifically authorized claimant's use of his POV when "advantageous to the Government" for segments of his TDY travel. Claimant for both overnight trips drove his POV to his duty station in Huger from his home in Mount Pleasant, South Carolina, a distance of approximately nineteen miles, solely to pick up and drop off a GOV, which he used for the balance of the trips. Claimant sought reimbursement for the mileage incurred in driving his POV on these occasions, at the rates authorized on his travel orders. The FS approving official denied reimbursement, and claimant seeks the Board's review of this denial.

Discussion

The Government, while acknowledging that claimant's TDY travel orders authorized POV use, urges that the approving authority must "ensure" that the travel voucher is "properly prepared in accordance with the pertinent regulations and agency procedures." It maintains that denial of claimant's POV mileage reimbursement claim was "in accordance with Forest Service policy." In this regard, the FS points to Forest Service Handbook (FSH) 6509-33-301 (Dec. 8, 2011), and to the following provision of that handbook:

301-10.306 - What will I be reimbursed if authorized to use a POV between my residence and office and then from my office to a common carrier terminal, or from my residence directly to a common carrier terminal?

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

In response, claimant cites to various provisions of both the Federal Travel Regulation (FTR) and the FSH as authority for obtaining POV mileage reimbursement for the travel here at issue. The FTR contemplates reimbursement for POV mileage when POV usage is authorized by an agency. It indicates that the agency may authorize the use of any number of transportation modes for official travel, including the use of a GOV, POV, taxi, and common carrier transportation. 41 CFR 301-10.3 (2011). The FSH, in addition to travel by common carrier, similarly authorizes a traveler to "use a Government car or plane, ferry, personal vehicle (with reimbursement based on mileage), rental car, or taxi." FSH 301-10.1, ¶ 8. In terms of using two transportation modes for different segments of TDY travel on the same trip, the FSH notes that the FTR "permits a traveler to use a taxi from home to the duty station when the traveler is leaving on official travel from the duty station" and to "take a taxi from the duty station to home the day [of] return to the duty station from official travel." FSH 301-10.1, ¶ 11. As to the selection of transportation mode, the FTR states: "Your agency must select the method most advantageous to the Government, when cost and other factors are considered." 41 CFR 301-10.4. And, in this instance, the claimant's travel orders reflect a determination by the agency that, for segments of the TDY travel, POV use could be "advantageous to the Government."

The above-quoted handbook provision upon which the agency based its decision (FSH 301-10.306) seems inapposite, since it addresses the situation where a traveler uses his POV first to go to his office or duty station and stops for some reason, e.g., to pick up papers, make phone calls, etc., and then goes from there on TDY travel, driving his POV

from the office to a common carrier terminal. Under those circumstances, the initial leg of POV travel would be no different than commuting to work on any other day, and the cost of his mileage into work would be non-compensable. It would defy logic, however, to reimburse an employee on TDY travel for the costs of a taxi to and from his home to pick up a GOV at his duty station (FSH 301-10.1, ¶ 11) and to deny him reimbursement for using his POV for that same purpose in lieu of a taxi. In this case, claimant has established that his POV use was clearly “advantageous to the Government,” providing cost estimates from two taxi companies indicating substantially higher costs than would be represented by the POV mileage he has claimed.

This Board’s recent decision regarding another claim submitted by claimant, cited by the agency in its response, *Orlando Sutton*, CBCA 2781-TRAV (May 30, 2012), *aff’d on reconsideration* (June 5, 2012), is readily distinguishable, since the present claims involve properly authorized overnight TDY travel to attend out of the area agency meetings, whereas the travel in that instance involved claimant’s use of his POV for travel from home to his duty station, the Francis Marion National Forest, to oversee a litter clearance project there by state, county, and community volunteers. Claimant’s earlier case fell clearly within the long-standing ban on reimbursement for commuting costs. *Id.*, and cases cited therein.

Decision

The claim for POV mileage reimbursement is granted.¹

RICHARD C. WALTERS
Board Judge

¹ Claimant, as part of his appeal to the Board, also sought payment for twelve hours of his “personal time” at his salary rate of \$49.66 per hour to “produce discovery documents in opposition” to the agency’s decision, plus “applicable interest.” Although no statutory or regulatory authority exists to compensate claimant for his “personal time,” he would be entitled a “late payment fee,” so long as the fee is computed as \$1 or more, based on Prompt Payment Act interest rates. 41 CFR 301-52.21 (2011).