



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 3, 2013

CBCA 3214-TRAV

In the Matter of DARLENE F. NOONAN

Darlene F. Noonan, Dallas, GA, Claimant.

Suzanne Milihram, Financial Management Specialist, Accounting Management Group, Centers for Medicare & Medicaid Services, Department of Health and Human Services, Baltimore, MD, appearing for Department of Health and Human Services.

VERGILIO, Board Judge.

On two occasions, after the agency had authorized the claimant to travel by a Government-owned vehicle, the claimant utilized a privately-owned vehicle. The agency properly limited the claimant's reimbursement to the constructive costs of utilizing a Government-owned vehicle. The Board denies the claim.

The claimant, Darlene F. Noonan, was scheduled for temporary duty travel on August 5, 2012. On July 23, 2012, the claimant created a travel order, as in the past, assuming that travel by commercial carrier was the method most advantageous to the Government; the claimant itemized a cost comparison for travel by commercial carrier and by a privately-owned vehicle. The agency approved the travel order for travel by commercial carrier (which would set maximums for reimbursement for claimant's anticipated use of a privately-owned vehicle for personal reasons). Subsequently, and prior to the official travel, on July 26, the agency informed the claimant that the agency was authorizing the use of a Government-owned vehicle as the approved method of transportation. The agency noted that, should the claimant utilize a privately-owned vehicle, reimbursement costs would be capped based upon a constructive use of an available Government-owned vehicle; that is, reimbursement for mileage would be limited to \$.23 per mile. In the autumn of 2012, the claimant performed additional temporary duty travel, for which the agency had authorized the use of an available Government-owned vehicle as the method of transportation most advantageous to the Government. Again, the claimant utilized a privately-owned vehicle for transportation. The agency reimbursed mileage at \$.23 per mile, as applicable to

Government-owned vehicles, and not \$0.555 per mile as applicable to privately-owned vehicles. The claimant seeks the difference in mileage reimbursement for each incidence of travel.

The applicable Federal Travel Regulation (FTR) states that an agency must select the method of transportation most advantageous to the Government. While travel by common carrier is presumed to be the most advantageous method of transportation, an agency can determine that travel must be performed by automobile. An employee who does not travel by the authorized method of transportation is liable for incurred expenses that exceed the cost of the authorized method of transportation. 41 CFR 301-10.4, .5, .6 (2012) (FTR 301-10.4, .5, .6). The FTR also explains the basis of reimbursement if a personally-owned vehicle is used instead of the authorized common carrier transportation, FTR 301-10.309, or instead of an authorized Government-owned automobile, FTR 301-10.310 (“You will be reimbursed based on a constructive mileage rate limited to the cost that would be incurred for use of a Government automobile.”). The agency’s travel manual and agreements submitted do not alter these basic precepts.

In an instance materially similar to this, in which the agency had authorized the employee to use a Government-owned automobile if the employee opted not to fly, this Board interpreted the regulations as limiting payment for use of a privately-owned vehicle to that available for use of a Government-owned automobile. *Herbert H. Galliard*, CBCA 3242-TRAV, 13 BCA ¶ 35,294. That same rationale is controlling here. The agency had authorized this claimant to utilize a Government-owned vehicle for transportation. The claimant opted to use a privately-owned vehicle. Reimbursement for mileage is capped at the rate for use of a Government-owned vehicle. FTR 301-10.310.

The claimant references past and various practices of the agency for similar trips when the agency had authorized use of a commercial carrier and permitted payment for use of a privately-owned vehicle without any limitation based upon use of a Government-owned vehicle. What distinguishes those situations from this claimant’s situation is that the agency here had authorized the claimant to use an available Government-owned vehicle. This served to limit the reimbursement available to the claimant. In any event, past practices are not controlling.

The Board denies the claim.

JOSEPH A. VERGILIO
Board Judge