



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 30, 2013

CBCA 3220-TRAV

In the Matter of KENNETH R. CHANEY

Kenneth R. Chaney, Roswell, GA, Claimant.

Lucinda E. Davis, Office of General Counsel, Social Security Administration, Baltimore, MD, appearing for Social Security Administration.

WALTERS, Board Judge.

Claimant, Kenneth R. Chaney, is the Social Security Administration (SSA) area director for the State of Georgia. He advises that his position requires extensive routine travel, both local and overnight. This dispute relates to the amount of reimbursement properly recoverable for ten instances of local travel during the period October 19 through November 30, 2011. Of \$426.93 presented by him in a travel voucher for the ten trips, Mr. Chaney had only been reimbursed \$193.29 by the agency, and he claims the \$233.64 difference. For the reasons discussed below, we deny the claim.

Background

Claimant advises that his normal mode of transportation for commuting to and from work at the area director's office (ADO) in the Summit Federal Building in Atlanta, Georgia, located twenty-three miles from his home, is via train. In this connection, he uses his personal vehicle (POV) to drive nine miles each way to and from the train station and receives a government transit subsidy for the round-trip train ride of \$4.75 per day. This "normal" commute, he says, does not entail any expenses for parking or tolls.

On the ten days in question, claimant was required to attend to official agency business outside his office at either the nearby regional office (RO) (some two miles away from the ADO), where he met with the SSA Regional Commissioner, or at other government facilities or prospective building sites within the local Atlanta area. At times, he would drive his POV from home to the ADO and then drive from the ADO to the other local site and either return to the ADO (and possibly go back and forth from the ADO to one or more additional sites) and then home or proceed directly home from the other local site. At others, he would begin by proceeding from home directly to the other local site and go from there to the ADO (and possibly back and forth from the ADO to other local sites) and then home. He incurred tolls and parking fees for parking at the ADO, the RO and elsewhere in connection with the ten trips. On all ten days, it appears, he performed work at the ADO at some point in the day.

The essence of the dispute here boils down to the following. The agency maintains that, in terms of providing reimbursement for local official travel outside the employee's office, claimant should not recover any costs incurred in commuting from home to his regular office and/or from that office to his home, *regardless of whether his normal mode of transportation may be less costly*. Thus, although compensating claimant for any POV mileage driven between the ADO and another local site, it refuses to compensate him for mileage for any trip between his home and the ADO and reduces claimant's POV mileage driven between home and a local site other than the ADO by the mileage between his home and the ADO (twenty-three miles at a rate of \$0.51 per mile). Further, although compensating claimant for parking fees incurred elsewhere, the agency does not allow reimbursement for any parking fees he paid for parking his POV at the ADO or for any tolls incurred by claimant between home and the ADO. Claimant's voucher, on the other hand, seeks recovery for all mileage, tolls, and parking and only allows the agency a credit for what he ordinarily would incur in terms of his daily commute, on either a round-trip or one-way basis. For those occasions when he drove from home to the ADO, from the ADO to another local site and back, and then from the ADO home, claimant would charge for all mileage traveled and for all tolls and parking fees incurred and would allow a credit for what his round trip costs normally would be to and from the ADO, i.e., the round trip mileage to and from the train station (eighteen miles at \$0.51 per mile) plus the \$4.75 round trip train subsidy, or a total of \$13.93. For those occasions when he drove from home to another site, from the other site to the ADO (and possibly back and forth to additional sites), and ultimately from the ADO to his home, he would again charge for all mileage and costs incurred and would allow credit only for what he ordinarily would incur for the one-way return trip between the ADO and his home – one-half of the \$13.93 total, or \$6.97.

An example would be October 19, 2011. On that date, claimant using his POV traveled from home to the ADO (twenty-three miles), from the ADO to the RO (two miles),

from the RO back to the ADO (two miles), and from the ADO home (twenty-three miles). He incurred \$1 in tolls driving between home and the ADO, \$12 to park at the ADO, and \$6 to park at the RO. For this trip, he claimed a total of \$30.57, consisting of: (1) \$11.73 for mileage between home and the ADO (twenty-three miles at \$0.51 per mile); (2) \$11.73 for mileage between the ADO and home (twenty-three miles at \$0.51 per mile); (3) \$1 for tolls incurred for the round-trip between home and the ADO; (4) \$12 for the parking fee at the ADO; (5) \$2.04 for the round-trip mileage between the ADO and RO (four miles at \$0.51 per mile); (6) \$6 for the parking fee incurred at the RO; and (7) a credit to the agency of \$13.93 for his normal round-trip commuting cost from home to the ADO. For that day, the agency allowed claimant a total of \$8.04. That amount consists of \$2.04 for the round-trip mileage between the ADO and RO and \$6 for the parking fee incurred at the RO. It does not include any reimbursement for mileage and tolls between claimant's home and the ADO or for the parking fee at the ADO.

Discussion

It is a longstanding rule that, because an employee's daily commute between his home and his office is personal, not official, business, agencies may not reimburse employees for their commuting expenses. *Ann R. Facchini*, CBCA 2861-TRAV, 12-2 BCA ¶ 35,161; *Orlando Sutton*, CBCA 2781-TRAV, 12-2 BCA ¶ 35,072; *Jacqueline T. Hodges*, GSBCA 15434-TRAV, 02-1 BCA ¶ 31,685 (2001); *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). In a situation such as this, where an employee elects to use his/her POV for local travel, it is within an agency's discretion to allow the employee mileage reimbursement or to impose limitations on reimbursement. *Jacqueline T. Hodges*, 02-1 BCA at 156,558 (citing *Bureau of Alcohol, Tobacco and Firearms*, B-255767 (May 2, 1994)).

The SSA's travel policy and rules, set forth in the Administrative Instructions Manual System (AIMS) in effect at the time, specified that, where mileage is to be reimbursed for POV use in local travel, "the normal commuting costs must be deducted." AIMS FM 07.13.03(D)(1). While claimant would prefer the deduction for "normal commuting costs" to be limited to the costs an employee might incur for the methods of transportation he would normally use, we do not interpret the agency rules so narrowly. Rather, where the agency rules make plain that its employees are to "bear the cost of transportation between their residence and office," AIMS FM 07.13.02(B)(2), reimbursement for costs an employee expends in the use of a POV to accomplish local official travel ought not to include mileage,

tolls, parking, or any other costs that relate to the employee's normal commute – i.e., to his “transportation between . . . residence and office.”

In *Orlando Sutton*, CBCA 2823-TRAV, 12-2 BCA ¶ 35,120, we were presented with a situation where an employee drove his POV to his work station, not to perform any work, but merely to pick up a government vehicle for use on TDY travel. We found the employee there entitled to recover for the mileage driven from home to the work station, since it fell outside the “long-standing ban on reimbursement for commuting costs.” Here, in contrast, the claimant drove to the ADO at some point during each of the ten days in question, in order to perform work, and thus was “commuting.” In our view, the agency was correct in computing the amount of reimbursement due for claimant's local travel so as to exclude his commuting costs.

Decision

The claim is denied.

RICHARD C. WALTERS
Board Judge