



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 22, 2015

CBCA 4027-RELO

In the Matter of CHARLES E. WILLEY

Charles E. Willey, Kittery Point, ME, Claimant.

Mark Slowiaczek, Office of Legal Counsel, Bureau of Naval Personnel, Department of the Navy, Millington, TN, appearing for Department of the Navy.

KULLBERG, Board Judge.

Claimant, Mr. Charles E. Willey, an employee of the Department of the Navy (Navy), seeks reimbursement in the amount of \$579.88, which he incurred because his personally owned vehicle (POV) exceeded the size limit of twenty measurement tons (MT) when it was shipped overseas from the continental United States (CONUS). For the reasons stated below, the claim is denied.

Background

By orders dated September 10, 2010, the Navy relocated Mr. Willey from his duty station in CONUS to Pearl Harbor, Hawaii (Hawaii). His orders authorized the shipment of his POV. On or about September 29, 2010, Mr. Willey brought his POV to a vehicle processing center (VPC) for shipment overseas. The height, length, and width of Mr. Willey's POV were measured before shipment, and based upon those measurements, his POV exceeded the size limit of twenty MT. The added charge for shipping his POV was \$579.88.

After serving in his position in Hawaii for several years, Mr. Willey applied for and accepted a position at the Portsmouth Naval Shipyard in Portsmouth, New Hampshire. His

orders, which were dated September 11, 2013, provided for the shipment of his POV. The height, width, and length of his POV were again measured at a VPC, and the size of his POV was less than twenty MT. Mr. Willey, consequently, incurred no added expense for shipping his POV back to CONUS.

After returning to CONUS, Mr. Willey submitted to the Navy a claim for the expense of \$579.88 that he had incurred when his POV had been shipped to Hawaii. In his claim he stated that his POV was measured with a width of one hundred inches when it was shipped to Hawaii, but it was measured with a width of seventy-nine inches when it was shipped from Hawaii. After receiving no favorable response with regard to his claim, Mr. Willey submitted his claim to the Board.

Discussion

The issue in this matter is whether Mr. Willey is entitled to recover the added expense he incurred when he shipped his POV to Hawaii. The Joint Travel Regulations (JTR), which apply in this matter, provide that shipment of a POV at government expense “is limited to POVs having a gross shipping size of not more than 20 measurement tons (800 cubic feet).” JTR 5708. An employee who ships a POV that exceeds twenty MT is financially responsible for the added expense of shipping that vehicle. *Id.*

Mr. Willey contends that his vehicle was improperly measured when it was shipped to Hawaii, and he incurred an additional expense as a result. By way of comparison, it has been established that an employee who relocates to a new duty station must pay the added expense of shipping household goods in excess of the maximum allowed weight, and the employee has the burden of proving that the Government’s determination of excess weight was incorrect. *See Gregory W. Slayton*, CBCA 3208-RELO, 13 BCA ¶ 35,303, at 173,288. In meeting that burden, “[m]ere suspicion or speculation is not sufficient.” *Sam Hankins*, CBCA 1309-RELO, 09-1 BCA ¶ 34,124, at 168,722-23. Mr. Willey, therefore, has the burden of proving that the measurement of his POV was in error when it was shipped to Hawaii.

At most, Mr. Willey has only established that there was a discrepancy in the measurements of the width of his vehicle when it was shipped to Hawaii and when it was shipped back to CONUS. A discrepancy in the measurement of the width of Mr. Willey’s POV does not, by itself, support a finding that his POV was within the size limit of twenty MT when it was shipped to Hawaii. We have no more reason to believe that the POV was improperly measured when it was shipped from CONUS to Hawaii than we have to believe it was improperly measured when it was shipped from Hawaii to CONUS. It would be mere speculation on the basis of the record before the Board to conclude that the POV was

improperly measured at one time or the other. Accordingly, Mr. Willey has not met his burden of proof in this matter.

Decision

The claim is denied.

H. CHUCK KULLBERG
Board Judge