



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 2, 2015

CBCA 4739-TRAV

In the Matter of AMY JIRSA-SMITH

Amy Jirsa-Smith, Bismarck, ND, Claimant.

Dianna Herbert, Financial Manager, Animal and Plant Health Inspection Service, Department of Agriculture, Riverdale, MD, appearing for Department of Agriculture.

SULLIVAN, Board Judge.

Claimant, Amy Jirsa-Smith, appeals the denial of her claim for mileage expense reimbursement for her travel on official business using her personally-owned vehicle (POV). The agency, Department of Agriculture, Animal and Plant Health Inspection Service, reimbursed Ms. Jirsa-Smith her mileage expense at the lower rate for travel using a government-owned vehicle (GOV), rather than the higher rate for travel using a POV, because she had a government-owned vehicle available for her use. With her claim, Ms. Jirsa-Smith seeks \$552, the difference between the mileage reimbursements at the two rates. For the reasons below, we deny her claim.

Background

Ms. Jirsa-Smith is an animal care inspector. Her official duty station is her personal residence in Bismarck, North Dakota. Because Ms. Jirsa-Smith normally travels from her residence to varying points of duty, in May 2013, the agency authorized her to possess a government-owned vehicle for home-to-work transportation. In January 2015, the agency advised Ms. Jirsa-Smith and other agency employees that employees would receive

reimbursement of \$.023 per mile “if a GOV was available and you choose to use your POV instead.”

The agency directed Ms. Jirsa-Smith to travel from Bismarck, North Dakota, to Kansas City, Missouri, to attend a meeting beginning on March 30, 2015, and ending on April 3, 2015. On March 24, 2015, Ms. Jirsa-Smith submitted a “Request for Special Travel,” in which Ms. Jirsa-Smith noted that she planned to combine business and personal travel and deviate from the official mode of transportation or itinerary for her personal convenience while using her POV instead of traveling by air:

I plan to drive my POV to Kansas City, MO for the [meeting] instead of traveling by plane. According to Google Maps, the distance from Bismarck, ND to Kansas City, MO is 800 miles. Flights from Bismarck to Kansas City, according to Concur, are at least \$1000 (with baggage fee and parking – not including transportation back and forth from airport). Using 1650 total miles at \$0.575 that would cost \$948.75. The cost for me to drive my POV will be less expensive than flying. I will be leaving my ODS [official duty station] on 3/21/15 to do some personal travel and will arrive in Kansas City, MO on 3/23/15. I plan to do personal travel on 04/05/15 and return to ODS on 04/07/15. I will not be requesting lodging or per diem from 4/04/15 to 04/07/15.

In response to her request, Ms. Jirsa-Smith’s supervisors advised her that she would only be reimbursed at the rate of \$0.23 per mile, rather than \$0.575 per mile, because she had a government-owned vehicle available to her. When Ms. Jirsa-Smith questioned whether she would be allowed to use her government-owned vehicle because the length of the trip was approximately fifteen hours, her supervisor informed her that she would receive “per diem and lodging for one day on either end” of her travel.

By email message on March 26, 2015, Ms. Jirsa-Smith made the following request:

I plan to travel via POV to Kansas City for the [meeting]. I will be leaving my ODS [official duty station] on Saturday, March 28 (for personal travel) arriving in KC on Monday March 30 (for . . . meeting) I will be traveling back from KC on Friday April 3 (personal travel through April 7). The mileage to KC from ODS is 1600 round trip, flight will cost \$927+. Mileage will be calculated at .23 per mile not to exceed cost of airfare.

Ms. Jirsa-Smith’s supervisor responded to this email message “[a]pproved.”

In an addendum to her claim, Ms. Jirsa-Smith submitted an agency memorandum, the subject of which was “Government-Owned Vehicles (GOV’s) Policy Regarding Drive Time, Frequency of Rest Periods, and Weather Conditions.” According to the memorandum, “while driving a government-owned vehicle,” agency employees “shall not drive in excess of [ten] hours in a single day.” The record indicates that the distance between Bismarck, North Dakota, and Kansas City, Missouri, is approximately 800 miles and would require more than ten hours to travel.

On April 9, 2015, Ms. Jirsa-Smith submitted a voucher for reimbursement of expenses she incurred while traveling. In the expense category “Mileage-POV,” Ms. Jirsa-Smith noted \$920 as the cost. In the trip details portion of the voucher, Ms. Jirsa-Smith indicated that on March 30, 2015, for “POV-TDY [temporary duty],” she should be reimbursed \$460. She indicated the same expense for her return trip on April 3, 2015. The agency reimbursed Ms. Jirsa-Smith \$368, based upon its determination that she could only be reimbursed \$0.23 per mile (the current reimbursement rate for GOV travel) for a total of 1600 miles.

Discussion

The issue in this case is, at what rate is the agency obligated to reimburse Ms. Jirsa-Smith for her travel to Kansas City, Missouri, using her POV? As indicated in Ms. Jirsa-Smith’s request for special travel, Ms. Jirsa-Smith chose to use her personally-owned vehicle because she planned to take leave both before and after the meeting to which she was being sent. Ms. Jirsa-Smith is not allowed to use her government-owned vehicle for this personal travel, so her decision to combine personal travel with official travel required her to use her personally-owned vehicle. 41 CFR 301-10.201 (2014) (use of government-owned vehicle limited to travel for official purposes).

Employees who chose to use a personally-owned vehicle instead of a government-owned vehicle may only be reimbursed at the government-owned vehicle rate:

[I]n any case in which an employee who is engaged on official business for the Government chooses to use a privately owned vehicle in lieu of a Government vehicle, payment on a mileage basis is limited to the cost of travel by Government vehicle.

5 U.S.C. § 5704(c) (2012). Ms. Jirsa-Smith has a government-owned vehicle assigned to her that she uses for her work. Because Ms. Jirsa-Smith chose to use her personally-owned vehicle although she had a government-owned vehicle available to her, she may only be

reimbursed the cost of travel by government vehicle, which is \$0.23 per mile. 41 CFR 301-10.310; *Herbert H. Galliard*, CBCA 3242-TRAV, 13 BCA ¶ 35,294.

Ms. Jirsa-Smith contends that she could not have used her government-owned vehicle for this trip because of the agency's policy that requires employees not to drive a government-owned vehicle more than ten hours in a single day and the travel time between Bismark and Kansas City is greater than ten hours. But, when Ms. Jirsa-Smith raised the issue of the hours limitation with her supervisors, she was told that she would be reimbursed the costs of lodging and per diem for the extra travel day if she drove her government-owned vehicle. With this extra day, Ms. Jirsa-Smith could have traveled using her government-owned vehicle and complied with the agency's policy. It was Ms. Jirsa-Smith's choice to combine personal travel with her official travel, rather than the hours limitation, that made her government-owned vehicle unavailable. It was Ms. Jirsa-Smith's choice to use her personally-owned vehicle, but she is limited to the government-owned vehicle rate for reimbursement.

Decision

The claim is denied.

MARIAN E. SULLIVAN
Board Judge