UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 29, 2022

CBCA 7280-DBT

In the Matter of BASEL M.

Caroline L. Callahan of Harman Claytor Corrigan & Wellman, Alexandria, VA, appearing for Petitioner.

Kimberly I. Thayer, Office of General Counsel, National Tort Claims Center, General Services Administration, Kansas City, MO, appearing for General Services Administration.

DRUMMOND, Board Judge.

Petitioner seeks review of a notice of debt collection by wage garnishment, dated October 20, 2021, that was issued by the General Services Administration (GSA). The Board does not find that a legally enforceable debt exists.

Background

The relevant automobile accident occurred in Fairfax, Virginia, on March 5, 2020. Petitioner was driving a vehicle that struck the rear bumper of a Government-owned vehicle that was stopped due to heavy traffic. Immediately following the accident, both drivers inspected their vehicles and, according to petitioner, agreed that no damages existed. The drivers did not call the police following the incident. The driver of the Government-owned vehicle, in a witness statement, described the conditions and damages as "rear bumper [hit] at approximately 5-10 [miles per hour]. Weather was not a factor. Both vehicles pulled over to assess damages . . . ." A third-party witness to the accident, in a statement, asserted that the Government-owned vehicle was at a complete stop, then tried to exit and was struck from behind, resulting in "rear bumper dented, and scratched. Passenger side of the rear bumper pushed out from car." The photographs taken at the scene do not depict any discernible damage to the rear bumper of the Government-owned vehicle. GSA's photographs show damages to the rear passenger-side quarter panel, the rear bumper not aligned with the rear

quarter panel, and minor damage to the bumper impact bar, but they are not accompanied by any evidence demonstrating that these damages resulted from the subject incident.

GSA contends that petitioner is responsible for a debt now totaling $1430.10, which is comprised of $928.03 for the cost of repairs to the government vehicle plus accrued interest. Petitioner, while admitting liability for the collision, denies he is responsible for the alleged damages.

Petitioner requested a hearing in this matter, which the Board docketed on December 22, 2021. The parties have since agreed to submit the case on the written record without a hearing.

<div align="center">Discussion</div>

The issue before the Board is whether GSA can collect from petitioner via wage garnishment the cost of repairing the Government-owned vehicle.

GSA has the burden of establishing the existence and amount of the debt. 41 CFR 105-57.005(f)(1) (2021). To do so, GSA must prove that a tort occurred and that the alleged debtor is liable for the resulting damages. *Tasha J.*, CBCA 7210-DBT (Nov. 9, 2021) (citing *James H.*, CBCA 7130-DBT (Oct. 27, 2021)). State law is applied to determine liability. *Id.*

GSA did not meet its burden to establish the debt. GSA demonstrated that a tort occurred, since it is undisputed that petitioner impacted the Government-owned vehicle. However, GSA did not prove that petitioner is liable for the damages asserted. Under Virginia law, "a claimant must prove 'with reasonable certainty the amount of damages and the cause from which they resulted.'" *Medcom, Inc. v. C. Arthur Weaver Co.*, 348 S.E.2d 243, 248 (Va. 1986) (citing *Carr v. Citizens Bank & Trust*, 325 S.E.2d 86, 90 (Va. 1985)). The documentary evidence GSA provided failed to explain how petitioner—having impacted the Government-owned vehicle from the rear at a low speed—could have caused the damages asserted, particularly that of the quarter panel. Therefore, GSA has not established with reasonable certainty that the vehicle damages it claims are actually attributable to petitioner. In the absence of such evidence, GSA has not established a debt owed by petitioner.

Decision

The Board finds that a legally enforceable debt does not exist. The suspension of collection of the debt in this matter is permanent, and GSA will stop all efforts to collect the debt against petitioner.

Jerome M. Drummond
JEROME M. DRUMMOND
Board Judge