



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

August 29, 2024

CBCA 8125-DBT

In the Matter of TERESA R.

Teresa R., Petitioner.

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

SULLIVAN, Board Judge.

Petitioner sought a hearing concerning the collection of a debt that the General Services Administration (GSA) asserts she owes as a result of an automobile accident. Based upon the evidence supplied by GSA, the Board finds that GSA has met its burden to establish that petitioner is liable for the debt, but petitioner's liability is limited by a state statutory cap.

Background

The automobile accident occurred in Long Beach, California, in February 2019. A driver other than petitioner struck the rear end of a GSA vehicle. The Long Beach Police Department issued a citation to that individual for "General Unsafe Speed." Petitioner is listed as the owner of the vehicle on the police report, with a different address than the driver of the vehicle.¹ The record is silent as to whether the driver had permission to drive petitioner's vehicle. GSA sought payment from petitioner's insurance company, but

¹ GSA, in its submission to the Board, initially describes petitioner as the driver who was cited for unsafe speed. GSA's Statement at 1. At the end of its submission, GSA corrects this error and notes that petitioner was the owner, but not the driver, of the vehicle that caused the accident. *Id.* at 8.

petitioner's policy had a limit of \$10,000, which was insufficient to cover the debt. Petitioner's insurance company advised that it would not pay the debt without a full release of petitioner.

Originally, GSA sought payment of \$20,389.54, for repairs and towing. With the application of fees and interest by the Department of the Treasury, the amount of the debt has increased to \$33,984.32.

Petitioner requested a hearing and indicated on the request form that she did not owe the debt. After receiving GSA's materials in response to the Board's scheduling order, the Board tried several times to contact petitioner to schedule further proceedings. When those efforts were unsuccessful, the Board issued an order directing petitioner either to contact the Board to schedule proceedings or to submit in writing a response to GSA's submission along with any evidence that petitioner wanted the Board to consider regarding the issues of liability and financial hardship. Petitioner failed to respond to the Board's order by the deadline set in the order.

Discussion

Petitioner properly requested a hearing in accordance with 41 CFR 105-57.005 (2023) and indicated on the form that she contested that she owed the debt. A hearing is defined as "a review of the documentary evidence concerning the existence and/or amount of the debt." *Id.* 105-57.002(o). By failing to respond to the Board's order setting a deadline to provide evidence, petitioner "waived . . . her right to appear and present evidence." *Id.* 105-005(k). Accordingly, the Board has conducted a hearing based upon the material in the record.

GSA's administrative wage garnishment regulation applies "to any GSA program that gives rise to a delinquent non-tax debt owed to the United States and that pursues recovery of such debt." 41 CFR 105-57.001(c)(1). "[T]he terms 'claim' and 'debt' are synonymous and interchangeable." *Id.* 105-57.002(k). A debt or claim is defined as follows:

[A]n amount of money, funds, or property that has been determined by GSA to be due the United States from any person, organization, or entity, except another Federal agency, from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures and all other similar sources, including debt administered by a third party as an agent for the Federal Government.

Id.

GSA has the burden of proving the existence and amount of a debt. 41 CFR 105-57.005(f)(1). To meet its burden, GSA must establish that a tort has occurred and the alleged debtor is liable for any resulting damages. *Tasha J.*, CBCA 7210-DBT (Nov. 9, 2021). “State law will be applied to determine liability.” *Id.*

GSA asserts that petitioner is liable for the driver’s action while driving her car under the Permissive Use Statute, California Vehicle Code section 17150. “[S]ection 17150 imposes upon the owner of a vehicle, driven by another with the other’s permission, monetary liability to an injured party when the injury was the result of the operator’s negligence.” *Moreles v. Herrera*, No. D077032, 2022 WL 1090255, at *5 (Cal. App. 4th Apr. 12, 2022). However, section 17151(a) limits that liability “to the amount of five thousand dollars (\$5,000) for damage to property of others in any one accident.” Cal. Veh. Code § 17151(a); *see Dawson v. Ortiz*, No. E049692, 2011 WL 2848216, at *7 (Cal. App. 4th July 19, 2011) (applying statutory cap in the same provision of \$15,000 for death of or injury to one person in one accident); *see also* 8 Cal. Jur. 3d Automobiles § 515.

Despite a request that GSA address in its submission the application of section 17151, Board’s Order (June 13, 2024) at 2, GSA failed to do so. The agency does not allege that there was a relationship of principal and agent or master and servant between the petitioner and the driver of the vehicle at the time of the accident, which would eliminate application of the Permissive Use Statute.

Decision

Petitioner is liable for the debt, but the amount of the debt is capped at \$5000.

Marian E. Sullivan
MARIAN E. SULLIVAN
Board Judge