

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

September 30, 2005

GSBCA 16651-RELO

In the Matter of DAVID HUNTER

David Hunter, Vero Beach, FL, Claimant.

Nancy J. Kripner, Human Resources Manager, Office of Foreign Service Human Resources, U.S. and Foreign Commercial Service, International Trade Administration, Department of Commerce, Washington, DC, appearing for Department of Commerce.

HYATT, Board Judge.

This matter concerns an employee's claim for reimbursement of storage costs accrued with respect to a privately owned vehicle (POV) that was shipped overseas for the employee's use while he served in a number of successive tours of duty abroad. At the same time that the POV was stored in a Government facility, the employee used and, in connection with transfers, incurred expenses, which were paid for by the Government, for the transportation and temporary storage of an additional POV.

Background

Claimant, David Hunter, became a Foreign Service Officer of the U.S. and Foreign Commercial Service (US&FCS), International Trade Administration, a component of the Department of Commerce, in August 1992. In December 1992, Mr. Hunter was issued travel orders effecting a permanent change of station assignment to Seoul, Korea, and in April 1996, he received travel orders transferring him to Chennai, India. In both instances, Mr. Hunter's relocation benefits included authority to ship a POV to his foreign duty station.

In July 1998, Mr. Hunter was selected by the US&FCS assignments panel to serve as the senior commercial officer (SCO) in Kiev, Ukraine, for a two-year tour of duty beginning in July 1999. This position required language training prior to relocating to Kiev.

In January 1999, travel orders were issued to Mr. Hunter, authorizing a permanent change of station from Chennai, India, to Kiev, Ukraine. These orders also incorporated home leave travel to Orlando, Florida, followed by temporary duty travel for consultation and training in Washington, D.C., followed by temporary duty travel to Garmish, Germany, for language training. In addition, the travel orders authorized Mr. Hunter to store a portion of his household effects in Antwerp, Belgium, for onward shipment to Kiev until completion of language training.¹ The orders further authorized “shipment of POV from Chennai to Kiev, with possible temporary storage in [Antwerp, Belgium,] if needed.”

Mr. Hunter was stationed in Garmish for approximately six months, while taking a language course prior to reporting for duty in Kiev. His 1982 Mercedes, which had been shipped from Chennai, was temporarily stored in Antwerp, along with his household effects. While in Garmish, Mr. Hunter needed transportation and decided to purchase another car, a 1986 Mercedes, rather than remove his 1982 Mercedes from storage.

In August 1999, claimant notified the agency that upon completion of his language training he planned to drive directly from Garmish to Kiev, adding that if he was required to return to the United States for additional training he would need to arrange storage of his vehicle and personal effects during that period. Additional training was not required, however, and he subsequently drove the 1986 Mercedes to Kiev, arriving on August 31, 1999. He did not request that his other car, the 1982 Mercedes, be shipped to the Ukraine, because it was not suited to the cold weather there. Consequently, it remained in storage in Antwerp.

In May 2001, Mr. Hunter was transferred again, this time from Kiev, Ukraine, to Islamabad, Pakistan. His travel orders again authorized shipment of household effects and a POV. Mr. Hunter arrived in Islamabad via air on August 28, 2001. He left Pakistan pursuant to emergency evacuation orders before he accepted delivery of his household effects and POV in Islamabad. At Mr. Hunter’s request, his household effects and POV from Kiev

¹ The Department of State has two designated storage facilities for all foreign posts worldwide: one in Hagerstown, Maryland, and the other in Antwerp, Belgium. The Antwerp facility was the designated storage location for Mr. Hunter’s posts. 14 FAM 622.

were temporarily stored in Antwerp while he prepared for his next assignment in Barcelona, Spain, in January 2003.

Mr. Hunter retired from the Government in May 2004. At that time, he asked the agency to coordinate with the storage facilities in Antwerp to ship his 1982 Mercedes back to the United States. He was informed that he would have to pay storage fees in the amount of \$5050 before the vehicle could be released and returned to the United States. Mr. Hunter has reluctantly paid the fees, but questions whether the Government properly required him to pay for storage of the vehicle.

Discussion

_____ Mr. Hunter argues that he was unaware of any regulation limiting his entitlement to store the vehicle at Government expense while he was assigned overseas. He further believes that he should have been informed by the Government that storage fees for this vehicle were accruing and that he would ultimately be responsible for paying the fees. The agency responds that it was never notified that Mr. Hunter had purchased a second vehicle and intended to leave the first vehicle in storage indefinitely. The agency was not aware that the 1982 Mercedes remained in storage while Mr. Hunter was using a second vehicle in Kiev, which was shipped toward Islamabad, then stored temporarily pursuant to the emergency evacuation orders, and ultimately shipped to Barcelona along with Mr. Hunter's household effects.

As a member of the Foreign Service, Mr. Hunter's overseas travel entitlements were governed by applicable provisions of the Foreign Service Act as implemented by the Foreign Affairs Manual (FAM). The Foreign Service Act and the pertinent provision of the FAM provide that the agency may authorize the transportation overseas of one motor vehicle for an employee stationed abroad if it has been determined that such transportation is necessary or expedient. 22 U.S.C. § 4081 (2000); 6 FAM 161.3. This entitlement is limited to one vehicle per employee, except that a replacement vehicle may be shipped every 48 months, if determined to be necessary. 22 U.S.C. § 4081; 6 FAM 111, exhibit 1114 (C)(13); *see Carlos L. Edwards*, GSBCA 15192-RELO, 00-1 BCA ¶ 30,877.

In this case, Mr. Hunter was authorized by the Commerce Department to store one vehicle on a temporary basis while he traveled between permanent posts. The agency points out that it had no reason, based on communications received from Mr. Hunter, to understand that he had purchased a second vehicle during his language training stint in Germany and that he intended to leave the first vehicle indefinitely in storage at the facility in Antwerp. The storage facility is under the control of the State Department, although Commerce uses it for its employees who are members of the Foreign Service. The agency knew only that Mr.

Hunter had been authorized to store a car temporarily in Antwerp and that he intended to drive to Kiev from Germany. Agency employees thus assumed that he was driving the same car that he had had shipped overseas from the United States.

The relevant travel orders authorized shipment of claimant's POV from Chennai, India, to Kiev and permitted *temporary* storage of the vehicle in Antwerp, if needed. These orders put the claimant on notice that storage of the vehicle was authorized only until he reported to Kiev. When he decided to purchase a different car, and drive that vehicle to Kiev, it was incumbent on claimant to inquire about the car in storage and to verify its status. Had he done so he could have avoided the problem of being assessed storage fees. The fact that the Government did not undertake to contact Mr. Hunter about the car's status does not relieve him of the obligation to pay for its long-term storage, which the agency did not authorize and which it was not permitted to authorize under the pertinent regulations.

In this case, the regulations do not authorize the Government to incur the expense of storing a car overseas while the employee simultaneously maintains a second vehicle at the place of assignment and then transports that vehicle at Government expense when relocating between assignments. Accordingly, the claim must be denied.

CATHERINE B. HYATT
Board Judge