

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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March 18, 2002

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GSBCA 15726-TRAV

In the Matter of JOHN R. DURANT

John R. Durant, Albany, NY, Claimant.

R.J. Dominic, Director, Finance Office, National Oceanic and Atmospheric Administration, Germantown, MD, appearing for Department of Commerce.

**BORWICK**, Board Judge.

Claimant, John R. Durant, traveled on official business for his agency, the Department of Commerce, National Oceanic and Atmospheric Administration. The agency authorized him to travel by plane, but he drove to his temporary duty station instead. The agency reimbursed him for the constructive cost of the trip as if he had traveled by plane. Claimant seeks no further reimbursement, but desires answers to questions involving interpretation of the Federal Travel Regulation (FTR). Mainly, claimant wants to know whether for the purpose of calculating transportation expenses, a personally-rented car should be considered a privately owned vehicle (POV) under the FTR. We decline to answer claimant's questions since he has not presented a cognizable claim for reimbursement of expenses that is required both under the applicable claims settlement statute and delegation of authority from the Administrator of General Services to this Board.

The record before the Board shows the following. Claimant traveled on official business from Albany, New York, to Kansas City, Missouri. The agency authorized claimant to travel by commercial air carrier at a fare of \$669. Claimant told his supervisor that he preferred to drive in his POV to his temporary duty station. The agency informed claimant that he could do so, but that he would be reimbursed only up to the amount of the authorized airfare plus \$100 for the estimated cost of travel to and from airports, a constructive cost of \$769. The agency estimated the cost of the transportation using the POV mileage rate and the cost of highway/bridge tolls to be \$921.48

Instead of using his POV for the trip, claimant rented a car and incurred rental car costs of \$519.78. Gas, tolls, and other associated expenses brought the alleged total

transportation incurred to \$621.43. Claimant used his personal charge card to pay for the expenses.

After claimant's return from temporary duty, on December 12, 2001, he submitted his initial voucher for reimbursement of transportation and other expenses. Instead of requesting reimbursement of incurred expenses for the rental car, however, claimant requested reimbursement of \$921.48 for POV mileage between Albany, New York, and Kansas City, Missouri. Claimant's supervisor refused to approve the voucher since claimant had used a rental car, not a POV. Claimant maintained that since he rented a car on his own account, he should be reimbursed for mileage as if he had used a POV.

The agency's Office of Finance and Administration advised claimant by e-mail message that transportation reimbursement would be limited to the constructive cost of the trip made by airplane--the authorized conveyance--between Albany and Kansas City. In giving this advice, the agency applied the rule that an employee who travels on official business by an unauthorized travel method such as a rental car is limited to a maximum reimbursement of the constructive cost of the authorized method of transportation, which is the sum of per diem and transportation expenses the employee would reasonably have incurred when traveling by the authorized method of transportation. 41 CFR 301-70.105 (2001); Peter C. Thurman, GSBCA 15562-TRAV, 01-2 BCA ¶ 31,516; see also Marty J. Dama, B-235070 (Oct. 6, 1989); Ronald D. Beeman, 60 Comp. Gen. 38 (1980).

On December 18, claimant submitted a second voucher seeking reimbursement of, among other items, \$769 as the constructive cost of transportation.<sup>1</sup> The agency approved the voucher for payment.

Claimant filed a claim at this Board and asked:

I have a question[--] is a car which is personally rented considered a POV if it [is] used on travel. For the record[,] the car was rented on a personal credit card[.] I was responsible for the liability and the car in question was my total responsibility.

In his submission to the Board claimant also asked two other questions unrelated to the circumstances of his travel.

By order of March 13, 2002, the Board requested claimant to state whether he was seeking additional reimbursement over the \$769 the agency had agreed to pay. Claimant stated that he was "not asking for any more reimbursement but clarification on what constitutes a POV."

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<sup>1</sup> The record contains another unsigned voucher seeking transportation costs based on the cost of a rental car. The cost of the rental car was less than the constructive cost of the airfare. The total claimed on the unsigned voucher, however, was greater than the amount claimed on the signed and submitted voucher. The unsigned voucher included per diem for a travel day not included on the submitted voucher based on the constructive cost of a trip conducted by air travel.

Statute provides:

Authority to settle claims

Except as provided in this chapter or another law, all claims of or against the United States Government shall be settled as follows:

....

The Administrator of General Services shall settle claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station.

31 USC § 3702 (a)(3) (Supp. V 1999)

The Administrator of General Services has delegated to this Board the statutory authority to settle claims. ADM P 5450.39 CHGE 63 (July 17, 1996). That delegation provides that the Board "resolves claims made under 31 U.S.C. § 3702 for reimbursement of expenses incurred while on official temporary duty travel." *Id.* at ¶ 1.a(2).

In this matter claimant does not seek reimbursement of money, but answers to questions concerning interpretation of regulations. Both statute and the delegation of authority, however, require that a claim be monetary--that is, that a claim be one for "expenses incurred" by the employee. Since claimant has already obtained from the agency complete reimbursement to which he is entitled, he has not submitted a claim cognizable by this Board. We will not address matters of purely hypothetical or academic interest. William R. Thygerson, GSBCA 15244-RELO, 01-1 BCA ¶ 31,283.

The claim is dismissed.

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ANTHONY S. BORWICK  
Board Judge