

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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December 17, 2004

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GSBCA 16495-RELO

In the Matter of TIMOTHY R. DEFOGGI

Timothy R. Defoggi, Alexandria, VA, Claimant.

W. David Malone, Certifying Officer, Department of State, Washington, DC,  
appearing for Department of State.

**GOODMAN**, Board Judge.

Claimant, Timothy R. Defoggi, is an employee of the Department of State. He has asked this Board to review the agency's denial of reimbursement of expenses incurred during a house hunting trip (HHT) in conjunction with a permanent change of station (PCS).

## Background

Claimant was issued travel orders in April 2003 to accomplish a PCS from his duty station in Parkersburg, West Virginia, to his new duty station in Washington, D.C. He was authorized an HHT for ten calendar days, to travel via air carrier and a rental vehicle.

Claimant traveled entirely by rental vehicle and accomplished the HHT in five calendar days. He drove from his old duty station to the new duty station on April 5 and returned on April 9 -- 325 miles each way between duty stations, and 302 miles at the new duty station during the three days he searched for a new residence. He submitted a travel voucher requesting reimbursement for lodging and meals (\$340), car rental expenses (\$244), and mileage (\$142.80). He paid for gasoline but did not retain his receipts.

The agency reimbursed his lodging and meal costs and \$157.80 for mileage, (apparently using a slightly different rate from that used by claimant) and denied reimbursement of the rental car expenses. Initially, the agency informed claimant he was not entitled to reimbursement for both rental vehicle expenses and mileage, and payment of mileage was more advantageous to claimant. In its response to the Board, the agency stated that claimant was only authorized the use of the rental car after arriving at his destination by air carrier, and he was therefore only paid mileage claimed for the trip.

Claimant seeks costs incurred for the rental car expenses in addition to the amount the agency has reimbursed for mileage.

### Discussion

Federal Travel Regulation (FTR) 302-5.13, 41 CFR 302-5.13 (2002), states that an employee will be reimbursed actual transportation costs for an HHT. FTR 302-5.14 states:

Your agency will authorize you to travel by the transportation mode(s) (e.g. airline, train, or privately owed automobile) it determines to be advantageous to the Government. Your agency will pay for your transportation by the authorized mode(s). If you travel by any other mode(s), your agency will pay your transportation expenses not to exceed the cost of transportation by the authorized mode(s).

As the claimant's travel orders authorized travel by airline and rental car, these modes of travel were determined most advantageous to the Government. By traveling solely by rental car, claimant's travel method differed from that authorized by the agency. Pursuant to the above regulation, claimant is entitled to his actual travel costs incurred, not to exceed the amount he would have reasonably incurred if he had traveled as the agency authorized -- by airline between duty stations and rental vehicle at the new duty station.

In this situation, the agency must calculate the employee's travel costs in two separate ways. First, it should determine, through the standard application of statute and regulation, the allowability of the various components of the employee's travel claim, and total the allowable costs. Second, the agency should determine the constructive, allowable costs of the employee's travel had he traveled by the method of transportation deemed to be in the Government's best interest. After computing the two totals, the agency should compare them. The agency should then pay the employee the lesser of the two amounts. Russell E. Yates, GSBCA 15109-TRAV, 00-1 BCA ¶ 30,785; see also Bobby L. Humphries, GSBCA 15872-TRAV, 02-2 BCA ¶ 31,998; Peter C. Thurman, GSBCA 15562-TRAV, 01-2 BCA ¶ 31,516.

Here, the comparison is relatively simple, for claimant's actual costs of lodging and per diem allowance were the same as the ones he would have incurred had he traveled by the method of transportation selected by the agency. Therefore, the agency needs simply to compare the costs claimant incurred in driving a rental car exclusively with those he would have incurred if he had flown between duty stations and rented a car only at the new station. The actual transportation costs incurred were \$244 for the rental car, plus whatever claimant spent for gasoline for the car. The latter amount must be approximated, since claimant did not retain receipts. Because mileage is not an allowable expense for rental cars, it may not be considered. Thurman. The constructive transportation costs are unknown at this time. The agency will have to determine what airfare between the two duty stations was at the time claimant traveled, and add to that amount the cost of renting a car and purchasing gas for it at the new station, plus whatever ground transportation costs claimant would have incurred in getting to and from the airport at his old station.

### Decision

The agency owes claimant the lesser of the two amounts calculated as described in the preceding paragraph. The amount previously reimbursed should be credited against the total amount due.

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ALLAN H. GOODMAN  
Board Judge