

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

January 26, 2005

GSBCA 16537-RELO

In the Matter of ROSALIND D. HAIRSTON

Rosalind D. Hairston, Corpus Christi, TX, Claimant.

Judy A. Hughes, Travel Policy and Procedures, Defense Finance and Accounting Service, Columbus Center, Columbus, OH, appearing for Department of Defense.

BORWICK, Board Judge.

Claimant, who transferred in the interest of the Government from Germany to Corpus Christi, Texas, imported her foreign privately-owned vehicle (POV) from Germany. She is not entitled to reimbursement beyond the maximum miscellaneous expense allowance (MEA) for the costs of bringing her POV into compliance with United States safety and environmental standards.

Background

Claimant, a civilian employee of the Department of the Army, was stationed in Germany. During her employment, the agency decided that it would be in the interest of the Government if she were allowed to have a POV at her duty station. Claimant thereupon purchased a car in Germany.

On November 26, 2003, the agency issued an order transferring claimant from Germany to Corpus Christi, Texas, and authorized claimant to ship her POV at Government expense. Claimant's duty reporting date was January 25, 2004.

It is not a simple matter for an individual to import a foreign automobile, non-compliant with United States safety and environmental standards, that he or she has purchased and used overseas. Regulation requires that an importer of a single automobile provide a bond establishing that the automobile conforms to all federal motor vehicle safety and bumper standards. 49 CFR 591.6 (2004).¹ Consequently, the owner of that automobile

¹ Section 591.6 (c) of 49 CFR provides:

must, at some expense, bring it into compliance with United States safety and environmental standards.

In this case, claimant paid \$4423.95 for the required bond, reflecting the expense of the customs duty, remodeling necessary to bring the automobile into conformance with applicable Department of Transportation (DOT) regulations, and costs of bringing the automobile into compliance with Environmental Protection Agency regulations.

Claimant submitted a voucher seeking reimbursement for those costs. Claimant says that agency officials told her she would be reimbursed the costs of importing her car into the United States.

In addition to shipping her automobile, the agency granted claimant the maximum allowable reimbursement of \$707.29 under the MEA for those costs incurred in bringing the automobile into compliance with United States safety and environmental standards. The agency determined that the POV expenses incurred were only reimbursable under the MEA and denied further reimbursement. Claimant says that if she had been properly advised as to the actual expense involved in importing the automobile, she would have sold the automobile in Germany and purchased another automobile after she had transferred back to the United States.

A declaration made pursuant to paragraph (f) of § 591.5, and under a bond for the entry of a single vehicle, shall be accompanied by a bond in the form shown in Appendix A to this part, in an amount equal to 150% of the dutiable value of the vehicle, or, if under bond for the entry of more than one vehicle, shall be accompanied by a bond in the form shown in Appendix B to this part and by Customs Form CF 7501, for the conformance of the vehicle(s) with all applicable Federal motor vehicle safety and bumper standards, or, if conformance is not achieved, for the delivery of such vehicles to the Secretary of Homeland Security for export at no cost to the United States, or for its abandonment.

Discussion

At the time claimant reported for duty, the Joint Travel Regulations (JTR) provided that the cost of automobile registration and tags, and the cost of a bond necessary for admission of a foreign POV into the United States that did not participate in the DoD POV import control program are reimbursable under the MEA. JTR C9000-5 (Jan. 2004); 62 Comp. Gen. 282 (1983).² The current version of the JTR is the same. JTR C5310-D.5; see also Dale G. Luckman, Jr., GSBCA 14874-RELO, 99-2 BCA ¶ 30,431. Since claimant has received the maximum MEA payment, JTR C9004, she is not entitled to a greater payment.

Claimant says she was told by unidentified officials that the full cost of importing the automobile would be reimbursed. Even if true, such erroneous advice would not bind the Government to pay monies in violation of regulation. Joel Williams, GSBCA 16437-RELO, 04-2 BCA ¶ 32,769. The claim must be denied.

ANTHONY S. BORWICK
Board Judge

² The DoD import control program applies to cars that have 1976 or later model year catalysts or oxygen sensors installed after March 1, 1976, and usually shipped abroad from the United States. The program authorizes, at employee expense and subject to EPA waiver letter, the removal of emission control components before the vehicle is operated overseas on leaded fuel and the reinstallation of those components incident to return to the United States. See DoD Personal Property Traffic Management Regulation 4500.34-R, ¶ 8003b, c. (1991). Claimant's car was not eligible for that program since it was manufactured to German specifications.