

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

June 11, 2003

GSBCA 16083-TRAV

In the Matter of CARL A. WILLECKE

Carl A. Willecke, Chicago, IL, Claimant.

Andre Bohdan Prypchan, Assistant District Counsel, Chicago District, Corps of Engineers, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

Carl A. Willecke is an employee of the Chicago District of the Army Corps of Engineers. From September 2002 to January 2003, he used his privately-owned vehicle (POV) on several occasions to travel from his office to other locations for the conduct of official business. He submitted vouchers for reimbursement of expenses incurred in using this vehicle, but his supervisor refused to process them. Mr. Willecke asks us to approve the vouchers.

In August 2002, the supervisor directed Mr. Willecke to stop using his POV for official business. The supervisor explains that he did so for three reasons: (1) Mr. Willecke had been improperly and without permission designating his car as an official Corps of Engineers vehicle by using a license plate assigned to another vehicle and a magnetic Corps identification marker; (2) Mr. Willecke had been using his car for travel which could have been performed more economically by taxicab due to the expense of parking a car in downtown Chicago; and (3) Mr. Willecke had improperly claimed reimbursement for mileage from his office to a distant location, when he had actually driven to that location from his home, which was near it.

Mr. Willecke maintains that he as a manager, and not his supervisor, has the right to decide when the use of a POV is appropriate for the conduct of business for which he is responsible. He maintains further that allowing Government employees' POVs to park in spaces reserved for official Government vehicles is a sensible policy, and that some of the trips for which he was denied reimbursement were performed most economically by using his POV. The claimant contends, "It is more important to [my supervisor] to misuse his authority in order for me to use a commercial convenience to waste the government's money than to allow me to . . . use my POV to save the government's money."

The dispute in this case is essentially over management prerogatives. The Department of Defense's Joint Travel Regulations (JTR) provide that officials designated by a defense service or agency may authorize reimbursement for travel expenses incurred by an employee in the local area of his permanent or temporary duty station, when the incurrence of those expenses is advantageous to the Government. JTR C2400. The Chicago District of the Army Corps of Engineers designated Mr. Willecke's supervisor, but not Mr. Willecke himself, to authorize reimbursement for local travel expenses incurred by certain employees including Mr. Willecke. Although it may be that the District could have designated Mr. Willecke to authorize reimbursement for such expenses incurred by certain employees including himself, the District did not make that designation.

The supervisor clearly and directly informed Mr. Willecke, in advance of the local travel at issue here, that he would not approve reimbursement for mileage traveled by this employee in his POV. While a different determination may have been better policy – we express no thoughts on this matter – the one the supervisor made was rational, so we will not disturb it.

We note that during the course of heated exchanges between Mr. Willecke and agency officials, the claimant pointed out that if the agency would not reimburse him for the use of his POV while conducting official business, it still had to make some reimbursement for expenses he had incurred. This rule is established in the Federal Travel Regulation (FTR), which states that an agency may not prohibit an employee from using a POV on official travel, "but if the employee elects to use a POV instead of an alternative form of transportation [the agency] authorize[s], [the agency] must [l]imit reimbursement to the constructive cost of the authorized method of transportation." 41 CFR 301-70.105 (2002). The supervisor has indicated a willingness to implement this rule, and he should do so.

Before closing, we mention a jurisdictional issue raised by the agency. Counsel notes that our Rules of Procedure for Travel and Relocation Expenses Cases say that they apply to two types of claims, "(1) Claims for reimbursement of expenses incurred while on official temporary duty travel; and (2) Claims for reimbursement of expenses incurred in connection with relocation to a new duty station." Rule 401(b) (48 CFR 6104.1(b) (2002)). According to counsel, because local travel is neither official temporary duty travel nor travel made for the purpose of relocating to a new duty station, we do not have authority to address claims for local travel.

Counsel reads this provision of our Rules out of context. Congress has vested in the Administrator of General Services the authority to "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 U.S.C. § 3702(a)(3) (2000). The FTR, which implements the statutes governing federal civilian employees' travel and relocation, addresses all official travel, including local travel. 41 CFR 300-1.1, -1.2, -70.102(h). The JTR, which implement and supplement the FTR for application to Defense Department employees, contain a specific part relating to local travel. JTR C2400-C2404. Thus, the Administrator's authority to settle claims for official travel clearly encompasses claims for local travel. As stated in the paragraph of our Rule 401 immediately preceding the one cited by agency counsel, the Administrator has delegated all of his authority under 31 U.S.C. § 3702 to the Board, and we review all claims coming within this purview. Rule

401(a). We have authority to settle claims for expenses of local travel as well as all other official travel undertaken by federal civilian employees. See, e.g., Jonathan Kaplan, GSBCA 15854-TRAV, 03-1 BCA ¶ 32,088 (2002); Shari Lenard, GSBCA 15759-TRAV, 00-2 BCA ¶ 31,865; Leon Rodgers, Jr., GSBCA 14678-TRAV, 99-1 BCA ¶ 30,376; James Jackson, GSBCA 13897-TRAV, 97-2 BCA ¶ 29,029 (all cases involving expenses of local travel).

STEPHEN M. DANIELS
Board Judge