

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

December 17, 2004

GSBCA 16514-TRAV

In the Matter of PATRICK J. TRUVER

Patrick J. Truver, San Diego, CA, Claimant.

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

PARKER, Board Judge.

Background

When Patrick J. Truver was sent on a ten-month temporary duty (TDY) assignment in August 2003 to the Industrial College of the Armed Forces at Ft. McNair, Washington, D.C., his travel orders contained an authorization for Mr. Truver to ship his privately-owned vehicle (POV) from his home in San Diego, California, to Ft. McNair, and return. Prior to issuing the TDY travel orders, Mr. Truver's employer, the Department of Defense (DoD), had compared the costs of a temporary change of station to the costs of a TDY reduced per diem assignment and determined that the TDY method, including the cost of shipping Mr. Truver's vehicle, was appropriate.

DoD initially paid Mr. Truver's claim for the cost of shipping his vehicle to Ft. McNair, but later, when he claimed the return costs, DoD determined that it had erroneously authorized the shipment of his vehicle. Consequently, DoD denied Mr. Truver's claim for \$1109 for the return shipment and subtracted from Mr. Truver's final voucher the amount the agency had paid for the outgoing shipment, \$1114. Mr. Truver has asked the Board to review the agency's actions.

Discussion

DoD was correct when it determined -- after the fact, unfortunately -- that the agency had no authority to pay for the shipment of Mr. Truver's vehicle in connection with his TDY assignment. As the Board has previously explained, generally speaking, travel and

transportation costs incurred by federal employees for which the Government is responsible fall within two categories: (1) temporary duty while on official business away from an employee's designated post of duty, see 5 U.S.C. §§ 5701-5706 (2000), and (2) relocation from one permanent duty station to another, see 5 U.S.C. §§ 5721-5729. E.g., Rebecca L. Kalamasz, GSBCA 15971-TRAV, 04-1 BCA ¶ 32,463 (2003). These statutory provisions are implemented in the Federal Travel Regulation (FTR). The Joint Travel Regulations implement and supplement the FTR with respect to civilian employees of the Department of Defense. Travel for training is governed by 5 U.S.C. § 4109 and is in a class by itself; it borrows from the principles established for the other categories but is separate from both of them. Kalamasz; Chris W. Giggey, GSBCA 13979-RELO, 97-2 BCA ¶ 29,312; Michael G. Pond, 58 Comp. Gen. 253 (1979).

Although an agency may authorize reimbursement of the costs of transporting a POV in connection with a permanent change of station, in general there is no source of authority to permit shipment of a personally owned vehicle to be used in connection with temporary duty travel or training. See Delia Triggs, B-249820 (Jan. 28, 1993). The exception to this rule is a temporary change of station (TCS), a concept which was introduced into the FTR in 1997, based upon 5 U.S.C. § 5737. Giggey. A TCS may be authorized when an employee is performing extended temporary duty for a period of no less than six months and no more than three years. Among the expenses which may be reimbursed in connection with a TCS is the shipment of a POV to the temporary duty station. Kalamasz. Under a TCS, however, Mr. Truver would not have been entitled to per diem expenses (except those incurred in connection with his travel to and from the temporary duty station). 41 CFR 302-3.422 (2003).

DoD decided that Mr. Truver's long-term training could best be accomplished by a TDY, rather than a TCS, arrangement. Under that arrangement, however, DoD lacked the authority to authorize shipment of Mr. Truver's vehicle, and the travel orders that purported to authorize the shipment were erroneous. Because it is well-settled that Government officials may obligate the Government to spend money only in accordance with statute or regulation, e.g., Kevin S. Foster, GSBCA 13639-RELO, 97-1 BCA ¶ 28,688 (1996), Mr. Truver's claim for reimbursement of his vehicle shipping expenses must be denied.

We recognize that the result seems unfair. Although the Board is unable to provide relief under applicable statutes and regulations, given that the Government likely saved a substantial sum of money on Mr. Truver's local transportation costs (owing to the fact that he drove his own vehicle while on TDY), and the fact that the mistake was the agency's, rather than Mr. Truver's, we will forward this matter to the appropriate office within the General Services Administration for possible referral to Congress under the Meritorious Claims Act, 31 U.S.C. § 3702(d) (2000).

ROBERT W. PARKER
Board Judge