



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 6, 2021

CBCA 7173-DBT

In the Matter of CHENILLE D.¹

Chenille D., Petitioner.

Kimberly I. Thayer, Office of General Counsel, National Tort Claims Center, General Services Administration, Washington, DC, appearing for General Services Administration.

RUSSELL, Board Judge.

Petitioner seeks review of a notice of debt collection by wage garnishment, dated June 2, 2021, that was issued by the General Services Administration (GSA). The Board does not find that a legally enforceable debt exists.²

Background

On December 18, 2011, petitioner was driving a vehicle in Indianapolis, Indiana, when petitioner's vehicle and a GSA-owned vehicle collided. According to a police report, factors contributing to the accident included overcorrecting and "speed/weather" conditions on the part of petitioner, and an icy roadway surface. As for the "speed/weather" conditions, the police report does not identify whether speeding or the weather conditions (or both) caused petitioner to overcorrect her vehicle resulting in the collision with the GSA-owned vehicle. The police report provides no indication of the speed at which petitioner was driving

¹ From emails, it appears that petitioner now goes by the name "[REDACTED]".

² The parties have agreed to submit this case for a decision on the written record without a hearing.

when the accident occurred. Further, there is no indication in the record that petitioner received a traffic-related citation.

The driver of the GSA-owned vehicle, in a witness statement, stated that petitioner's vehicle hit a patch of black ice and the driver lost control of the vehicle. A third party witness to the accident, in a statement, also stated that petitioner's car slid on black ice by a bridge hitting a rail and then hitting the GSA-owned vehicle. However, neither the driver of the GSA-owned vehicle nor the third party witness opined that petitioner was speeding or otherwise operating her vehicle in a reckless manner. Petitioner's statement about the accident is consistent with the information provided by both the driver of the GSA-owned vehicle and the third party witness. In an email dated September 7, 2021, petitioner asserted that her vehicle spun out of control due to black ice and that she was not speeding.

GSA contends that petitioner is responsible for a debt in the amount of \$16,477.02, which is comprised of \$7,676.50 for the cost of repairs to the GSA-owned vehicle, with the remainder being fees and accrued interest. GSA asserts that given petitioner's "failure to drive her vehicle at a speed that was safe for the conditions present, [s]he is presumed to" be negligent and therefore liable for the damages caused to the GSA-owned vehicle.

Discussion

The issue before the Board is whether GSA can collect from petitioner, by wage garnishment, the cost of repairing its vehicle. GSA's basis for the asserted debt is its allegation of tort liability in the automobile accident involving petitioner and a GSA vehicle. As this Board stated in *Derric J.*, CBCA 7134-DBT (Aug 17, 2021):

The General Services Board of Contract Appeals (GSBCA), which was one of the boards that were consolidated to establish this Board, recognized that a Government claim for a debt based upon tort liability must show "(i) that a tort has occurred and (ii) that the alleged debtor is in fact liable for any resulting damages." GSBCA 16520-DBT, slip op. at 5 (Nov. 24, 2004). The GSBCA also recognized that state law would determine liability absent a finding that federal law should control, but the Government must show an analysis of petitioner's conduct and liability in light of that state law. GSBCA 16526-DBT, slip op. at 7 (Nov. 24, 2004).

GSA has failed to meet its burden of proof. In support of its position, GSA relies on *Davison v. Williams*, 242 N.E.2d 101, 105 (1968), which states, "[w]e believe that the wisest course for the courts of Indiana to take in the adjudication of a suit involving negligence by violation of a safety regulation is to treat plaintiff's proof of defendant's violation of the

safety regulation as creating a rebuttable presumption of negligence.” Here, GSA produced no proof that petitioner was cited for violation of any state traffic safety regulation.

Further, petitioner denies speeding, and the police report does not provide any probative evidence to the contrary. The report does not indicate the speed at which petitioner was operating her vehicle at the time of the accident evidencing that she was driving above the speed limit, nor does the report evidence that petitioner was otherwise operating her vehicle in a reckless manner. The report also does not indicate that either petitioner or the driver of the GSA-owned vehicle was issued a traffic citation or was otherwise charged with a traffic violation. Thus, we find no persuasive showing that a tort occurred, and GSA has therefore failed to prove the existence of a debt.

Decision

The Board does not find that a legally enforceable debt exists in this matter.

Beverly M. Russell
BEVERLY M. RUSSELL
Board Judge