



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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December 7, 2010

CBCA 2083-TRAV

In the Matter of LESLIE A. DAY

Leslie A. Day, Binghamton, NY, Claimant.

Rachel S. Wivell, Travel Specialist, National Oceanic and Atmospheric Administration, Department of Commerce, Germantown, MD, appearing for Department of Commerce.

**STEEL**, Board Judge.

Claimant, Leslie A. Day, is a Facilities Engineering Technician with the National Oceanic and Atmospheric Administration (NOAA), National Weather Service. He is often deployed for extended periods away from his primary residence and in locations where adequate housing is unavailable. Thus the agency has agreed that usage of his recreational vehicle (RV) is often his best housing option.

Mr. Day sought reimbursement for expenses of a trip for government business to Buffalo, New York, in May of 2010, and submitted a claim for expenses in the amount of \$761.50. NOAA reimbursed Mr. Day most of those expenses, but declined to pay \$200 for the rental of the RV from a business owned by Mr. Day. Mr. Day pursues his claim for the \$200 (five days at \$40 per day) because he believes there exists precedent for the reimbursement of fees for the rental of an RV by a Government employee.

The Government has paid Mr. Day for expenses of the RV use, such as the campsite fee of \$247.50 claimed for five nights (\$49.50 per night), since Federal Travel Regulation (FTR) 301-11.12(e) permits the payment of such fees. 41 CFR 301-11.12(e) (2009). It declined to pay Mr. Day's additional \$40 per day charge from his company to the Government for a rental fee for the RV itself, however, on the grounds that the regulations now prohibit the payment of a "token" fee. Mr. Day argues that while the current FTR 301-

11.12(e) does not show rental fees as a reimbursable expense, these expenses were reimbursable under Joint Travel Regulations (JTR) paragraph C4552-2j (Jan.1, 1982) in effect in the early 1980s.

In *Bornhoft v. United States*, 137 Ct. Cl. 134 (1956), the Court of Claims explained, in considering a case involving an employee's travel costs, that the subsistence allowance the Government provides "is supposed to cover the *extra* expenses incident to traveling." Applying this principle to the situation in which an employee stays while traveling in a motor home or recreational vehicle he owns, the General Accounting Office decided that costs the employee incurs in using the vehicle -- including parking space rental fees and utility costs (connection and disconnection fees, bath or shower fees, and dumping fees) -- are reimbursable. *Charles H. McClelland*, B-227383 (Sept. 25, 1987). This understanding has been incorporated into the Federal Travel Regulation at 301-11.12(e). Interest payments on the employee's motor home loan during the period of travel are also reimbursable, but only in one of two circumstances -- if the employee can establish that he purchased the vehicle specifically for use as a residence while traveling on temporary duty, or if he held the vehicle for rental purposes and would have rented it out if he had not been using it. *McClelland*; *Lucius Grant, Jr.*, 62 Comp. Gen. 635 (1983); *Rodney J. Gardner*, B-210755 (May 16, 1983).

The decisions by the General Accounting Office do not, as the claimant contends, hold that rental fees for the use of a recreational vehicle a traveling employee pays to himself or to a company controlled by him are reimbursable as travel expenses. Indeed, *Grant* and *Gardner* explicitly reject that proposition. They state that where an employee holds a recreational vehicle for rental purposes and uses it while traveling instead of renting it to others, "the basis for computing [reimbursable] costs is not the rental price of the property, but rather a proration of his monthly interest, taxes, and utilities . . . for the rental property in question." This formulation is consistent with the principle that the Government should pay the extra expenses an employee incurs while traveling. The claimant's suggestion that he recover the putative rental costs would give him a profit -- and that is not consistent with the purpose of the travel rules.

#### Decision

Mr. Day is not entitled to receive \$200 (\$40 per day) in RV rental fees.

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CANDIDA S. STEEL  
Board Judge