



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 23, 2012

CBCA 2564-TRAV

In the Matter of MARK G. HAMMOND

Mark G. Hammond, Gallup, NM, Claimant.

Michael R. Smith, Deputy Bureau Director, Bureau of Indian Affairs, Department of the Interior, Washington, DC, appearing for Department of the Interior.

ZISCHKAU, Board Judge.

Mark G. Hammond, the claimant, appeals the denial of his amended vouchers for additional mileage reimbursement for use of his privately owned vehicle (POV) generally for traveling between his residence in Gallup, New Mexico, and his temporary duty station in Albuquerque, New Mexico. Mr. Hammond had submitted travel vouchers and was paid \$0.285 per mile based on the rate applicable for a government traveler who uses his personal vehicle where a government vehicle was available for his use. In November 2010, he received approval from a supervisor to begin using the higher mileage rate applicable to POV use where no government vehicle is available. He thereafter sought retroactive effect for the ten months prior to the approval, arguing that no government vehicle was available to him after December 2009. We conclude that Mr. Hammond is not entitled to an additional mileage reimbursement because there is no evidence in the record that a government vehicle was not available to him during the period in question. Mr. Hammond submitted vouchers and received payment based on his representations that he had used his personal vehicle in lieu of a government vehicle. Accordingly, we deny the claim.

Background and Discussion

The claimant has the burden of proof and must establish all elements of his claim. *David L. Mount*, CBCA 1990-TRAV, 10-2 BCA ¶ 34,503. In his appeal, Mr. Hammond identifies fifteen travel vouchers for which he is claiming additional reimbursement of mileage for the period January 4, 2010, through October 29, 2010, totaling \$2543.93. He had

submitted travel vouchers and had been paid at the rate of \$0.285 per mile but now seeks an additional \$0.215 per mile. On August 25, 2011, the agency denied Mr. Hammond's claim for additional mileage reimbursement, stating in relevant part:

Your request for additional mileage reimbursement is denied for the following reasons: In a random review of your Travel Vouchers it clearly shows that "POV - Available Govt Vhe [government vehicle]", highlighted . . . that a government vehicle was available and you chose to drive your privately owned vehicle. Since there was a government vehicle available for your use, your claim for mileage was reduced in accordance with the Federal Travel [Regulation] Your vouchers were paid for the full mileage for which you were entitled. In the electronic GovTrip system for government travel, it shows you signed and created your vouchers. Keep in mind, when you signed your voucher[s] you were certifying that they are true and correct to the best of your knowledge.

Mr. Hammond states that he was detailed to the Southwest Regional Office, Bureau of Indian Affairs, Department of the Interior, located in Albuquerque, New Mexico, from October 7, 2009, through January 11, 2010, and then worked at the Southern Pueblos Agency, also located in Albuquerque, until his retirement on March 29, 2011. Mr. Hammond states that he had a government vehicle available to him from October 7 through the end of December 2009, but he elected instead to use his own personal vehicle. The agency states that Mr. Hammond was asked to turn in the keys to the government vehicle in December 2009 so that the vehicle would be available for other government employees to use if needed. Mr. Hammond submitted vouchers and received reimbursement starting in October 2009 at the rate of \$0.285 per mile applicable for using a POV where a government vehicle is available. He continued to use his POV to travel to and from his temporary duty station in Albuquerque for the period from January 2010 through March 29, 2011, and he continued (at least through October 2010) to submit vouchers and receive reimbursement at the \$0.285 mileage rate.

Mr. Hammond now asserts, however, that starting in January 2010 (after he turned in the keys to the government vehicle at some point during December 2009) there was no government vehicle "available for his use" and thus he should have been reimbursed at the applicable full mileage rate, which he identifies as \$0.50 per mile during the pertinent periods in 2010. The Department of the Interior states that a government vehicle was available for his use but he chose instead to continue using his personal vehicle. There is no evidence that the department's statement is incorrect. Further, Mr. Hammond's original election to use his personal vehicle in lieu of a government vehicle never changed during his remaining time with the department. Nor is there any record of him requesting to use a government vehicle

in lieu of his personal vehicle and such a request being denied. He completed travel vouchers selecting the \$0.0285 mileage rate bearing the legend "POV - Available Govt Vhe." If the availability of a government vehicle had changed, or if he had changed his election, it was Mr. Hammond's responsibility to communicate that change to the appropriate government personnel, and then select the appropriate mileage reimbursement rate in preparing and submitting his official travel vouchers. He did none of the above.

Mr. Hammond also points to his memorandum of November 18, 2010, signed by the Regional Director of the Southwest Regional Office of the Bureau of Indian Affairs, approving his financial hardship request "for a waiver to full per diem rate of \$81.00 for lodging and \$56.00 M&IE and Mileage at the full rate (effective 01/01/2010) for the duration of my detail" This memorandum by itself does not demonstrate any change in his election to use his POV and does not support his claim for additional mileage reimbursement under the pertinent travel regulations.

Decision

Mr. Hammond has not demonstrated that a government vehicle ceased being available to him between December 2009 and November 2010, or that he changed his election to use his POV in lieu of a government vehicle during this period. Accordingly, we deny the claim for additional mileage reimbursement.

JONATHAN D. ZISCHKAU
Board Judge