



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

August 28, 2015

CBCA 4759-TRAV

In the Matter of MARK E. BRADLEY

Mark E. Bradley, Reno, NV, Claimant.

Thomas E. Spahr, Director, Travel Functional Area, Enterprise Solutions and Standards, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

DANIELS, Board Judge (Chairman).

When the Department of the Army transferred Mark E. Bradley from Bamberg, Germany, to Herlong, California, in September 2014, it shipped his personally owned vehicle from Germany to Los Angeles, California, at government expense. Later, the Army authorized Mr. Bradley to spend two days traveling from Herlong to Los Angeles to pick up the vehicle and return. The Army also paid for Mr. Bradley's airfare from Reno, Nevada, to Los Angeles, and for the cost of his travel in the vehicle from Los Angeles back to Herlong. The Army did not reimburse Mr. Bradley, however, for the cost he incurred for lodging overnight in Stockton, California, on his drive back to Herlong. Mr. Bradley asks us to review this last action.

Both the Federal Travel Regulation (FTR) and the Department of Defense's Joint Travel Regulations (JTR) speak clearly to the situation. The FTR says that when an agency ships a transferred employee's vehicle, the employee will be reimbursed for the costs of getting from his duty station to the port to pick up the vehicle, and for the return – but that the employee “may not be reimbursed a per diem allowance for round-trip travel to and from the port involved.” 41 CFR 302-9.104 (2014). A “per diem allowance” includes the cost of lodging. *Id.* 301-11.1, -11.5. The JTR similarly says, under the heading, “Reimbursement when an Employee Chooses to Deliver/Pick up the POV [personally owned vehicle] to/from

the Port/VPC [vehicle processing center],” “Per Diem Not Allowed. *Per diem is not authorized when an employee/designated representative makes a separate trip to a port/VPC to deliver/pick up the POV.*” JTR C5452-B.1.¹

Mr. Bradley notes that the JTR contains a separate section, C3025, which provides that when an employee travels in a personally owned conveyance, one day is allowed for certain distances traveled – 400 miles when on temporary duty and 350 miles when changing permanent duty stations. He urges that because the distance from Los Angeles to Herlong is more than 500 miles, section C3025 implicitly allows for an overnight stay en route. He suggests that the two provisions are in conflict and that if C5452-B.1 is to prevail over C3025, the interrelationship between the two be clarified.

We appreciate Mr. Bradley’s point that driving more than 500 miles in one day, by the estimation of the JTR writers, merits an overnight stay en route. We also think that the interrelationship between C5452-B.1 and C3025 could be improved by having C5452-B.1 state that the rule it enunciates applies notwithstanding what is stated in C3025. Nevertheless, regulations are construed under similar principles to those affecting statutes, *Camargo Correa Metais, S.A. v. United States*, 200 F.3d 771, 773 (Fed. Cir. 1999), and “it is a commonplace of statutory construction that the specific governs the general.” *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 132 S. Ct. 2065, 2071 (2012) (quoting *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992), and citing *United States v. Chase*, 135 U.S. 255, 260 (1890)). Clearly, the rule established in C5452-B.1 is specific to the situation in which an employee travels to deliver or pick up a personally owned vehicle to or from a port, and therefore must govern that particular situation. The general rule of C3025 does not apply here.

STEPHEN M. DANIELS
Board Judge

¹ The parties cite to paragraph 5726-B.1 of the JTR. The quoted material was placed in that part of the JTR effective October 1, 2014. Mr. Bradley reported to his new duty station during the previous month, however, and a transferred employee’s “entitlements and allowances for relocation are determined by the regulatory provisions that are in effect at the time [the employee] report[s] for duty at [the employee’s] new official station.” 41 CFR 302-2.3. We therefore cite to the version of the JTR which was in effect in September 2014. The quoted provision is identical in the two versions.