



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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June 15, 2018

CBCA 5990-RELO

In the Matter of RHONDA M. SPRENGER

Rhonda M. Sprenger, Raleigh, NC, Claimant.

Robin Kelley, Branch Chief, Financial Administrative Services, Natural Resources Conservation Service, Department of Agriculture, Raleigh, NC, appearing for Department of Agriculture.

**O'ROURKE**, Board Judge.

Claimant, an employee of the Department of Agriculture, received authorization to ship her personally owned vehicle (POV) from her former residence in Pendleton, Oregon, to her new permanent duty station (PDS) in Raleigh, North Carolina. Despite the authorization, the agency denied reimbursement of the shipping costs since she traded in her car for a new one sometime after it was delivered. The agency reasoned that the shipment of the POV was no longer "incident to the transfer." We disagree and grant the claim.

Background

After accepting a new position within the agency, claimant received permanent change of station (PCS) orders on November 7, 2017, which authorized her to drive her POV from Portland to Raleigh. Due to severe weather conditions in the region at the time of her PCS, claimant requested that her POV be shipped instead. After the agency conducted a cost comparison, it determined that shipping the vehicle and flying her to Raleigh was more cost effective. Her request was approved on November 13, 2017, and her orders were modified to reflect the authorized shipment with a maximum reimbursement allowance of \$1200. Claimant arranged the shipment, paid for it, and was instructed to claim the expense on her travel voucher after arriving at her new PDS. She paid \$1210 to ship her POV.

Claimant flew to Raleigh and reported for duty on December 8, 2017. Her car was shipped and delivered on December 13, 2017. Shortly thereafter, claimant traded it in for a new car. She also submitted a travel voucher to recoup travel costs related to her transfer to Raleigh, including the shipment of her POV.

On December 28, 2017, the agency denied her claim for the cost of shipping her POV. Claimant requested an explanation for the denial since the shipment was authorized on her orders. Due to the trade-in, the agency sought advice from the travel policy office at the General Services Administration (GSA). The agency asked GSA whether it is required to reimburse an employee for the shipment of a vehicle that is no longer in its possession. GSA advised, via email, that “[T]he shipment of a car is designed to make you more effective at the new site. They are not more effective at the new site because they have this car. The car is not incident to the transfer. They are not entitled to the shipping of the POV.” Claimant sought the Board’s review of the agency’s denial.

### Discussion

The Board derives its authority over relocation claims from 31 U.S.C. § 3702 (2012). The Federal Travel Regulation (FTR) (41 CFR parts 300-304) is the controlling regulation applicable to these claims. In this case, claimant questions the agency’s denial of the previously authorized shipment of her POV to her new duty station. The cost of shipping a POV is a discretionary expense that an agency is not required to reimburse. *Frayne W. Lehmann*, 70 Comp. Gen. 327 (1991). Therefore, authorization for reimbursement of that cost must be given by the agency prior to shipment. 41 CFR 302-9.8 (2014) (FTR 302-9.8).

Although claimant’s original PCS orders did not contain the authorization, the orders were subsequently modified to include the authorization. The agency concedes that claimant was authorized to ship her POV based on hazardous weather conditions and safety concerns. The basis for the agency’s denial of the shipment cost was claimant’s decision to trade in her car after it was delivered.

The agency incorrectly reasoned that because the original POV is no longer in claimant’s possession, the expense of shipping it was not “incident to her transfer.” However, no provision of the FTR contains the cited language, or establishes such a framework for authorizing shipment of a POV. Rather, the FTR provides that an agency may authorize transportation of a POV when “[i]t has determined in accordance with § 302-9.604 that it is in the interest of the Government for [an employee] to have use of [the employee’s] POV at the post of duty.” FTR 302-9.140.

Factors that must be considered when deciding whether to authorize transportation of a POV to a new duty post include:

- (a) Local conditions at the employee's post of duty warrant use of a POV;
- (b) Use of the POV will contribute to the employee's effectiveness on the job;
- (c) Use of a POV of the type involved will be suitable under local conditions at the post of duty;
- (d) The cost of transporting the POV to and from the post of duty will be excessive, considering the time the employee has agreed to serve; and
- (e) The POV is in operating order and legally titled and tagged for driving.

FTR 302-9.605. In this case, the agency exercised its discretion to approve shipment of the POV consistent with these provisions, and in doing so agreed that "it *will* pay for all necessary and customary expenses directly related to the transportation of the POV, *including . . . shipping charges.*" See FTR 302-9.10 (emphasis added). Once that determination was made—and the authorization issued—the agency was bound to pay it.

Furthermore, no provision of the FTR supports a retroactive withdrawal of a valid travel authorization. This Board recently stated that "valid travel orders cannot be revoked or modified retroactively, after the travel is completed, to decrease rights that have already become fixed." *Monika M. Derrien*, CBCA 5901-TRAV, 18-1 BCA ¶ 36,967, at 180,100 (quoting *Renee Cobb*, CBCA 5020-TRAV, 16-1 BCA ¶ 36,240, at 176,819). Additionally, the Board determined that once travel began, the agency "could no longer revoke or revise that authorization because a reviewing official later disagreed with the determination." *Id.* In *Renee Cobb*, the Board upheld a long-standing precedent that:

The rule regarding retroactive modification or amendment of travel orders is that under orders entitling an officer or employee to travel allowances, a legal right to such allowances vests in the traveler at and when the travel is performed. It may not be divested or modified retroactively so as to increase or decrease the right which has accrued.

16-1 BCA at 176,819 (quoting *Dr. Sigmund Fritz*, 55 Comp. Gen. 1241, 1242 (1976)).

The agency authorized shipment of claimant's POV, and it was shipped and delivered to Raleigh. Claimant seeks only what was authorized, nothing more. The fact that she is now driving a Buick, for example, rather than a Honda does not negate the authorization. The trade-in is irrelevant. Once shipment was authorized and claimant relied upon it and completed the travel, the agency cannot revoke the authorization.

Decision

The claim is granted.

*Kathleen J. O'Rourke*  
KATHLEEN J. O'ROURKE  
Board Judge