



LEGAL BRIEFS

From the Fort Knox Claims Office

7 October 2008

CLAIMS NOTES

Revised copies of AR 27-20 (8 February 2008), the Claims regulation and DA Pamphlet 27-162 (8 March 2008) which set out Army claims policy have finally been received in our office.

Important changes in these publications which will have a significant effect upon three areas of the claims process are explained here.

VANDALISM

One change has again modified the rules on vehicle vandalism claims. The modification has reestablished the policy that vandalism claims can be paid if: 1) the damage is truly vandalism, and 2) it occurred at a quarters or barracks parking space, a duty parking area, the PX, Commissary or a NCO Club parking lot. Any previous regulation that required the vandalism to have occurred at a quarters or barracks parking area no longer applies.

Vandalism incidents, e.g., scratching or "keying" a vehicle, puncturing tires, or breaking windows, can be considered for payment by the Claims Office when some confirmatory evidence of vandalism [e.g., broken window glass] is found at the location where the vehicle was parked. In some cases, like keyed car paint, it may be difficult for a claimant to meet the burden of proof. For this reason, claimant's need to promptly report such acts of vandalism to the Military Police. We also strongly encourage that you review Comprehensive Insurance coverage with your insurance agent to determine whether it would benefit you to retain such coverage, or to reduce your deductible amount if you are already carrying such coverage. Also, on any vandalism claim, if the claimant has such Comprehensive coverage, he/she must file with his/her insurance company first, and the Army will be secondary payor on such damage.

RECONSIDERATION

A second change has revised the processing of requests for reconsideration [appeals] on claims. Previously, if the claimant requested reconsideration on the amount paid on a claim, and the Claims Office did not fully grant the request on all items, the file had to be forwarded to the Army Claims Service for a final decision. Now the local Staff Judge Advocate can take final action on any case where the amount in dispute is \$1000 or less, as long as the Staff Judge Advocate did not act originally on the claims, e.g. on a claim denial. This will mean that fewer claim files will go forward on appeal and the processing time for appeals should be shortened.

MAXIMUM ALLOWANCES

As in the previous regulation, the Staff Judge Advocate is authorized to waive maximum amounts allowable where good cause exists. Previously, aside from the \$40,000 per claim limit on household good claims, there were often limits on particular items (e.g., pianos) or classes of items (e.g., collectibles). When a claimant had higher value items or exceeded the category allowance a request to waive the maximum allowance had to be sent to Army Claims Service for action. The local Staff Judge Advocate can now waive the maximums for specific items or categories of property. For instance, paintings have a maximum allowance set at \$1,000 per item or \$3,000 for the entire claim. The SJA could waive those limits if he/she determined that there was good cause, and 1) the property was not being held for commercial purposes, 2) the claimant actually owned the property, 3) the property had the value claimed, and 4) the property was damaged or lost in the manner alleged.

Under previous versions of the regulation, if Army Claims Service was unable to recover more money for the carrier than had been paid to the claimant because of the maximum allowance rule, any overage was paid to the claimant. This process could take a very long time to accomplish and was never a sure thing. Now the claimant may be able to get more money faster and the payment will not be dependent upon the success of recovery efforts against the carrier.