

CLAIMS FACT SHEET

ICE STORM DAMAGE CLAIMS MAY BE PAYABLE

The recent severe weather, which featured an ice storm and the loss of power for extended periods, has prompted inquiries to the Claims Office on whether the Army will pay for property loss or damage. Here are the rules relating this storm.

Army Regulation 27-20 [Claims] and DA Pamphlet 27-162 [Claims] provide Army Claims Service guidance on payable claims.

First, in order to be payable under Chapter 11 of the regulation, the storm event, like a hail or ice storm must constitute an “unusual occurrence.” Army Claims Service takes the position that a hailstorm is not **normally** an “unusual occurrence,” and therefore routine hail damage would not be payable. However, a hailstorm can present itself as an “unusual occurrence” **if** the size of the hail is unusual. Fort Knox has occasionally had hail storms where the hail ranged from ping-pong ball to golf ball size. In those cases, our office has determined that the hailstorm was “unusual” because of the size of the hail.

Similarly, in the case of the recent ice storm. The enormity of the storm and its results were unprecedented in at least the last sixteen years, and it is therefore viewed as an “unusual occurrence” from its size, intensity, duration, and result. Therefore, our step one analysis indicates that such claims for damage can be considered for payment by the Army.

Step two requires us to look to see if the person suffering the damage is authorized to be paid for it under Chapter 11 of the regulation. Under Chapter 11 only the following personnel are authorized to file claims for ice storm/hail damage: **Active Duty personnel, Reserve personnel on AT, or in drill status**, whose vehicle/property were damaged while in any authorized parking area on the installation, **and DoD/DA and NAF civilian employees** whose vehicles/property were damaged on the installation at their workplace parking areas, or while entering or exiting Fort Knox. Retired military or retired civilian employees, contractor personnel, and visitors to Fort Knox are **not eligible** to be paid by the Army for hail/ice damage claims.

Step three is to determine where the vehicle/property was located when it was damaged. Only vehicles that were located on the installation or at off-post Government provided quarters, or a duty work location at the time of the damage are eligible for payment consideration. Military and civilian personnel living or traveling in surrounding communities cannot file with the Army for damage that occurred off the installation unless they were using their vehicle/property while in a TDY status under orders.

Step four requires that the Army be a secondary payor on this type of claim. That means that if your vehicle/property has Comprehensive or Renter's Insurance coverage under your insurance policy, you should, but are not required to, first file with your insurance carrier. If you elect to file first with the Military Claims Office [MCO], we will need to review your insurance coverage sheet and determine if there is full coverage or if there is a deductible that applies. In most cases, the Army will try to make up any short fall due to an applicable deductible, depending upon the depreciated value of the property, or the Blue Book value of a vehicle. If you vehicle does not have any Comprehensive coverage on it, and has just Liability coverage, then the MCO will look at the extent of the damage and consider the Blue Book value of the vehicle using several Internet sources. If the damage exceeds the book value of the vehicle, a loss of value award may be made so that the vehicle can be retained by the claimant, however, if the MCO pays the full Blue Book value of the vehicle, then it may be necessary to make a turn-in of the vehicle to the DRMO for salvage. We do not normally take this approach if we can avoid doing so.

The Army Claims Service Allowance and Depreciation Guide also potentially impacts an award on a vehicle. That document sets a maximum amount that can be paid on a vehicle claim of this type at \$3,000.00. That is a per claim and not a per vehicle amount. Fortunately, the Staff Judge Advocate, in appropriate cases, can consider a waiver of that limit to make a higher award.

Non-payable vehicle claims include the following. If your vehicle is not properly registered with a state, properly insured, and registered with the PMO, it is not considered to be "properly upon the installation," and any claim for damage to it will not be paid. If the vehicle is stored in the impound/storage lot and has no immediately apparent valid state plates on it, and no insurance coverage, payment of a claim will be considered on a case-by-case basis. With the PMO's recent campaign to insure validity of stickers for entry to post this should not normally be an applicable disqualifier for most personnel.

Claimants should, if possible, take digital photos of the damaged areas and items. For vehicle claims, bring to the claims office a copy of your insurance cover sheet, state registration, and decal number, or other pass for entry to the installation. One repair estimate from a reputable repair shop is all that is required for damage assessment. If drivable, we can perform an inspection of the damage and photographing of the vehicle if the claimant does not have that capability. A spouse can file the paperwork with a Power of Attorney, or submit the necessary documents, with the claimant to come by and sign the claim as convenient. A validly signed DD Form 1842 [Claim Form] is necessary before a payment can be entered into the DFAS computer system. Payments generally take between seven and ten days to be made by DFAS, Rome, NY.

Other types of property that is normally kept outside of quarters, such as patio furniture, grills, etc., can also be considered for payment under Chapter 11. Basically, the same rules on eligibility and insurance coverage apply on those type of claims.

Food spoilage due to a lack of power can be considered for payment. A rule of thumb would be at least 24 hours without power for food to become questionable if no other refrigeration measures were possible. The MCO would rather err on the side of caution than have someone get sick from spoiled food. Make a list of the items that have been disposed of and give a reasonable estimate of the total value of the foodstuffs if no cash register receipts have been retained. We do not need you to waste your time doing line after line on the claims forms listing individual food items. A reasonable general total will suffice.

Unfortunately, the claims regulation that we administer does not allow for the payment of incidental damages like renting hotel rooms or eating out.