

What Is An Unusual Occurrence?

The Personnel Claims Act (PCA) specifies what type of claims are payable under the Army Claims System. Claimants can be reimbursed for loss or damage incident to their service that is caused by "extraordinary hazards," which include "fire, flood, hurricane, and other unusual occurrences, or by theft or vandalism." If a loss isn't caused by one of these hazards it won't be covered under the PCA.

Fire, flood, and hurricane don't occur very often on the installation. Theft and vandalism don't usually present any complications unless there is a question of whether the claimant was negligent. The most troublesome "extraordinary hazard" involves unusual occurrences.

The determination of what constitutes an unusual occurrence is often very fact specific. The general rule is that if, in any given circumstance, your chances of suffering a particular loss are the same whether you are a civilian or a DOD employee the event would not qualify as an unusual occurrence. The best example of this is when a DOD employee comes out to their car at the end of the day and finds an unknown person has hit their car. Victims of hit and run accidents on the installation often want to file claims for the damage sustained to their vehicles, but these claims are denied. The possibility of being hit by another vehicle in a parking lot is very well known. Your chances of being the victim of a hit and run are the same on post as they are at the grocery store off post or anywhere else. Although the circumstance is unfortunate it is not unusual.

Other instances of accidents frequently seen on post that are not considered unusual are damage to a vehicle by an errant shopping cart in the commissary parking lot, damage to a vehicle that hits a deer on post, damage to a vehicle from hitting a pot hole, and damage caused by a ball escaping from a ball field or golf course.

None of these occurrences are considered unusual. If you park at the commissary you should recognize the possibility that someone will hit your car with a shopping cart. Every driver knows the danger of hitting an animal on the road as well as the possibility of hitting pot holes. It is well known that baseballs and golf balls often leave the playing field/area. If you park your car near such a location you are accepting the risk of loss.

Even when damage is not considered caused by an unusual occurrence there may still be a valid claim if you can show government negligence, but this is often hard to do. These claims will be handled under the Federal Tort Claims Act. For instance, if you hit a pot hole and damage your vehicle you might claim the government was negligent in maintaining the road. To be entitled to reimbursement you would have to show the government either knew or should have known of the hazard and failed to correct it within a reasonable time. You'd also have to show you weren't negligent. If you've driven by that spot everyday for three weeks and even complained to co-workers about the pot hole then you had notice of the hazard. Your failure to avoid the hazard would be considered negligence, which would preclude any payment.