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DECISION

D. Saiger
Per
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-189968

DATE: March 31, 1978

MATTER OF: William J. Feaser + Unaccompanied Baggage
Costs in Excess of Amount Authorized

DIGEST:

Employee authorized 700 pounds of air freight unaccompanied baggage incident to a transfer from Newark, New Jersey, to Malaysia, is liable for the excess weight of such baggage since his travel orders as well as the GBL put him on notice of his weight limitation. In addition since travel orders stated transfer was from Newark, New Jersey, to Malaysia, and unaccompanied baggage was shipped from Arlington, Virginia, employee is entitled to actual transportation costs for 700 pounds air freight from Newark, New Jersey, and 680 pounds by surface transportation from Newark. He must reimburse the Government for any excess transportation costs.

The Office of Controller, Drug Enforcement Administration, Department of Justice, by letter dated August 24, 1977, requests a decision as to whether Mr. William J. Feaser, a Special Agent of the Drug Enforcement Administration (DEA), may be relieved of the liability for that part of the charges for the shipment by air of unaccompanied baggage in excess of the 700 pounds administratively authorized incident to a permanent change of duty station.

The record shows that by DEA travel orders dated October 28, 1975, Mr. Feaser was transferred from Newark, New Jersey, to Kuala Lumpur, Malaysia. The orders authorized the shipment of 700 pounds of unaccompanied baggage by air freight, and 4,000 pounds of household effects as well as nontemporary storage of 3,000 pounds.

Mr. Feaser shipped 1,380 pounds of unaccompanied baggage by air freight from Arlington, Virginia, to Malaysia. He also shipped 3,160 pounds net weight from Red Bank, New Jersey, where his household goods were in storage.

Mr. Feaser contends that since the Government Bill of Lading (GBL) for the unaccompanied baggage stated on its face that unaccompanied baggage was not to exceed 700 pounds gross, the carrier should not have shipped more than that weight without Mr. Feaser's prior authorization. Therefore, he believes he should not be liable for the cost of transporting

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the excess weight. It is his contention that the notation on the GBL was an unequivocal listing that one stipulated parameter was that there was to be 700 pounds gross of unaccompanied baggage. He interprets that to mean that the carrier submitted an estimate and was subsequently awarded a contract to ship 700 pounds and not 1,380 pounds. He also contends that his goods did not weigh 1,380 pounds.

With regard to the contention that the 700-pound limitation is a contract to the carrier to ship only 700 pounds, it should be noted that this limitation appears on the travel orders issued to Mr. Feaser. Thus it is not a limitation for the carrier but a notice to the traveller that he is authorized a shipment of that weight at Government expense. For any weight above that authorized, the law does not permit payment by the Government of charges incurred incident to shipment of the excess weight. When a shipment is made by GBL the Government is required to pay the charges and then collect any amount attributable to excess weight from the employee. B-174755, January 18, 1972. Since the weight limitation of 700 pounds was noted on the travel orders, thus giving Mr. Feaser notice of the weight limitation he was properly charged for the excess shipping charges. See also B-118052, April 23, 1954.

With regard to the contention by the employee that the air freighted goods could not weigh 1,380 pounds, the record contains a copy of a weight ticket indicating 1,380 pounds. This is identified with the shipment by the name "Wm. Feaser" typed thereon. In addition the carrier has submitted an inventory of the air freighted goods. Mr. Feaser has presented no evidence other than his statement, that 1,380 pounds was too much weight for these goods. On the present record, we must accept the official scale weights submitted by the carrier.

Section V, paragraph 3 of the DEA "Tender of service for the Transportation of Household Goods-Through Bill of Lading Method", pertains to the carrier's liability for weight limitations stated on the GBL and provides as follows:

"a. I/We hereby agree to comply with the weight limitations for unaccompanied Air Freight Baggage as stated on the GBL.

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"b. For example, if the GBL states: Weight not to exceed 500 lbs gross weight, I/We will not bill DEA for any charges in excess of that stipulated weight."

The only penalty for a violation of the above paragraph would be action to disqualify the carrier. See section II, paragraph 18 "Disqualification." That section does not authorize the nonpayment of the appropriate charges for the weight transported.

The submission states that if a determination is made that Mr. Feaser is held liable for the cost of shipping the excess weight by air freight can an offset be made against the excess cost, \$1,266.80 by the cost to ship the excess weight by surface transportation. In B-187020 dated January 24, 1977, it was held that a DEA employee, whose personal effects were shipped via air in excess of the authorized weight limit was entitled to credit for the constructive transportation of the excess weight by surface transportation.

Applicable Federal Travel Regulations--paragraph 2-8.2d allows Government payment for the shipment of a transferred employee's household goods whether the shipment originates at the employee's last official station or some other point. The total amount that may be paid, however, may not exceed the cost of transporting the property in one lot by the most economical route from the last official station of the transferring employee to his new official station. See B-166962, June 27, 1969.

Accordingly, Mr. Feaser is entitled to the actual transportation expenses incurred not to exceed the cost of transporting 700 pounds unaccompanied baggage by air freight and 680 pounds of baggage plus the 3,160 pounds of household effects by surface transportation from Newark to Kuala Lumpur, Malaysia. Mr. Feaser must pay the Government for any transportation costs for shipment of his effects exceeding the amount of such allowable transportation cost. See B-174755, January 18, 1972, and B-118052, April 23, 1954.

Action should be taken by the agency in accordance with this decision.


Deputy Comptroller General
of the United States