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**DECISION**



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

**FILE: B-189493**

**DATE: OCT 16 1978**

**MATTER OF: Trans Country Van Lines**

**DIGEST:**

1. Transfer of transportation audit function from this Office to GSA by Pub. L. No. 93-604, approved January 2, 1975, and effective October 12, 1975, included settled claims.
2. Request by carrier for review of former Transportation and Claims Division (TCD) settlement disallowing carrier's supplemental bill for transportation charges received in GAO later than 6 months from date of final dispositive action by GSA or 3 years from date of payment is time-barred.
3. Six-month period on claims settled by former TCD begins to run from effective date of transfer, October 12, 1975.

Trans Country Van Lines, Inc. (Trans Country), in its letter of June 6, 1977, requests review by the Comptroller General of the final settlement action of February 6, 1975, taken by our former Transportation and Claims Division (TCD), now a part of the General Services Administration (GSA).

The record shows that in June 1971, Trans Country transported a shipment of footlockers in conjunction with the relocation of Headquarters, 3d brigade, 78th Division, Department of the Army, from the Kearny Army Reserve Center, Kearny, New Jersey, to Fort Hamilton, Brooklyn, New York. The footlockers contained various office records and supplies and moved under Government Bill of Lading No. F-3619338, issued May 27, 1971, which described the shipment as "MILITARY IMPEDIMENTA" and designated the special rate authority as being the carrier's Section 22 Tender ICC No. 150 (Tender 150).

On July 7, 1971, Trans Country received payment for its services at the rate prescribed by Tender 150. Thereafter, the carrier maintained that Tender 150 did not apply to the shipment; it contended that Government Rate Tender (GRT) 1-V pertaining to the transportation of household goods applied.

Trans Country submitted a supplemental bill to TCD, received March 29, 1974, for \$1,014.30, the additional amount Trans Country claimed was due. TCD, observing that "Military Impedimenta" was not within the purview of the carrier's operating authority, ruled that Trans Country was properly paid at the rate prescribed by Tender 150

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on a quantum meruit basis, and disallowed Trans Country's claim. In response to a request for reconsideration, TCD affirmed its disallowance of Trans Country's claim on February 6, 1975, and recommended to the carrier that "any protest you may have in regard to this decision should be made directly to the Office of the Comptroller General of the United States." Trans Country, in its letter of June 6, 1977, requests review of TCD's action.

While Trans Country presents several reasons in support of its review request, we need not consider them, because, in our opinion, the claim is barred from our consideration by the time limitations on our review in the General Accounting Office Act of 1974, Public Law 93-604, approved January 2, 1975, 31 U.S. Code 52(c) note (Supp. V, 1975).

The transportation audit function was transferred from this Office to GSA under the provisions of that Act. The entire transportation audit function, including the settlement of claims, was transferred to GSA, with the General Accounting Office retaining its oversight responsibilities as well as an appellate function enabling carriers to request the Comptroller General to review executive agency action on their claims. See Hearings on H.R. 12113 before a Subcomm. of the House Comm. on Government Operations, 93d Cong., 2d Sess. 32 (1974). The transfer was effective October 12, 1975. B-163758, August 27, 1975. On that date TCD's final action of February 6, 1975, became in effect the action of GSA.

The authority for this Office to review an action taken by GSA on transportation claims is found at 49 U.S.C. 66(b) (Supp. V, 1975), which provides that:

"Nothing in subsection (a) of this section hereof shall be deemed to prevent any carrier or forwarder from requesting the Comptroller General to review the action on his claim by the General Services Administration, or his designee. Such request shall be forever barred unless received in the General Accounting Office within six months (not including in time of war) from the date the action was taken or within the periods of limitation specified in the second proviso in subsection (a) of this section, whichever is later."

Pursuant to this statutory provision, we have promulgated regulations for the review of GSA transportation settlement actions. 4 C.F.R. 53 (1977). Specifically, 4 C.F.R. 53.2 (1977) provides that:

"Actions taken by the General Services Administration on a claim by a carrier or freight forwarder entitled under 49 U.S.C. 66 to be paid for transportation services

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prior to audit that have dispositive effect and constitute a settlement action as defined in sec. 53.1 will be reviewed by the Comptroller General, provided request for review of such action is made within six months (not including time of war) from the date such action is taken or within the periods of limitation specified in 49 U.S.C. 66(a), whichever is later."

The periods of limitation referred to in both the statute and regulations, and specified in 49 U.S.C. 66(a), are within three years of the date of (1) accrual of the cause of action, (2) payment of the transportation charges, (3) subsequent refund for overpayment or (4) deduction. There was no refund of an overpayment nor deduction in this case. Therefore, the applicable dates for determining the statutory barring period in this case are the date the transfer was effective, October 12, 1975, and the date of payment for the carrier's services, July 7, 1971. Trans Country had six months from the date of transfer, or April 13, 1976, or three years from the date of payment, or July 8, 1974, whichever is later, to file its request for review of the final action on its claim taken on February 6, 1975. Since Trans Country's request for review of that action by this Office was not received here until June 30, 1977, we are barred by the provisions of the statute from considering it. 57 Comp. Gen. 157 (1977).

~~E. F. MILLER~~

Deputy Comptroller General  
of the United States