

DECISION



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

Trans.

10,507

FILE: B-194029

DATE: June 18, 1979

MATTER OF: Interstate Van Lines, Inc.

DLG 01851

DIGEST:

1. Although carrier is responsible for transportation under bill of lading which covers all charges including storage and delivery, GSA regulations permit carrier to submit bill for services from point of origin to point of storage in transit (SIT). The regulations also allow carrier, as principal, to designate warehouseman its agent to bill in carrier's name for SIT and delivery charges.
2. Carrier's attempt to change certificate by disclaiming its liability for overpayment of SIT charges unless billing for those charges was tendered directly to it varied certificate terms set out in GSA regulations and is contrary to law.

Interstate Van Lines, Inc. (Interstate) requests our review of audit actions taken by the Transportation Audit Division, General Services Administration (GSA) on three notices of overcharge sent to Interstate [or to its subsidiary, Star World Wide Forwarders, Inc. (Star)]. Further action by GSA on these overcharges is being held in abeyance pending this review. The review is being made under 49 U.S.C. § 66(b) (1976) and 4 C.F.R. § 53.3 (1978), since GSA has agreed that its action in this case constitutes finality of administrative consideration. See 4 C.F.R. § 53.1 (1978).

DLG 01858

DLG 00840

The notices of overcharge result from multiple payments for the same services made to Interstate and its agents on three shipments of household goods. The multiple payments include charges for storing the household goods in transit, for transporting them from storage to their destinations (SIT charges) and for reweighing them at destination.

We hold that Interstate is liable for the multiple payments made to it and to its agents. Interstate's attempt to insulate itself from liability for overpaid SIT charges by imposing conditions on the payment of those charges is contrary to law.

[Audit Actions on Notices of Overcharge]
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The Gerald L. Hill Shipment

Government Bill of Lading (GBL) No. M-3067988, dated August 9, 1976, covered the shipment of Gerald L. Hill's household goods from Tacoma, Washington, to Albion, Michigan. This shipment was picked up at origin by Star and transported to Jackson, Michigan, where it was placed in storage at the White Star Moving & Storage Company (White Star) warehouse on August 20, 1976. Line-haul charges of \$922.91 were collected by Star in December 1976.

Papers supporting Star's billing for the line-haul charges included a certificate issued by Star authorizing the shipment to be placed in the White Star warehouse. Under this certificate, White Star was authorized by Star to collect from the Government as agent of Star all SIT charges authorized on GBL No. M-3067988.

White Star, billing in the name of its principal, Star, collected \$187.45 in April 1977 for SIT charges on GBL No. M-3067988. This carrier presented a second similar bill for the same charges and was paid \$187.45 in April 1977. A third similar bill was presented by White Star for \$187.45 and paid in May 1977. This resulted in triplicate payments to White Star, as the agent of Star, for the same services.

The Richard L. Kettelkamp Shipment

GBL No. H-7050508 dated December 4, 1974, covered the movement of household goods, property of Richard L. Kettelkamp, from Alexandria, Virginia, to Tucson, Arizona. The shipment was picked up at origin by Star and transported to Tucson, Arizona, where it was placed in storage at AB Moving & Storage Company's (AB Moving) warehouse on December 23, 1974. Line-haul charges of \$321.35 were collected by Star in March 1975.

Papers supporting Star's billing for the line-haul charges include a certificate issued by Star authorizing the shipment to be placed in AB Moving's storage warehouse. This document also authorized AB Moving to collect from the Government, as agent of Star, all SIT charges authorized on GBL H-7050508.

AB Moving, billing in the name of its principal, Star, collected \$102.44 for SIT charges in September 1975. This company presented a second similar bill and was paid \$102.44 in February 1976, resulting in a duplicate payment for the same services.

The Howard G. Woodbridge Shipment

GBL No. M-2397912, dated June 15, 1977, covered a shipment of household goods, the property of Howard G. Woodbridge, transported by Interstate from Springfield, Virginia, to Columbus, Mississippi, where it was placed in storage at the McConnell Brothers Transfer and Storage, Inc. (McConnell) warehouse on July 5, 1977. Interstate's bill for the line-haul charges was supported by the same type of certificate used with the other two shipments.

Interstate's driver's weight certificate dated June 15, 1977, shows a gross weight of 41,480 pounds, tare weight of 40,040 pounds and net weight of 1,440 pounds. This is supported by two weight tickets dated June 15, 1977. A reweigh certification shows a gross weight of 38,600 pounds, a tare weight of 36,900 pounds and net weight of 1,700 pounds. When a reweigh is accomplished the household goods tariff provides that the applicable charge is based on the lower of the two weights and the carrier is entitled to a reweigh charge.

McConnell as an agent of Interstate, presented a bill for reweigh charges of \$20. This was paid in December 1977. Interstate presented a bill for the same reweigh charges of \$20 which was paid in March 1978. These transactions constitute a duplicate payment of reweigh charges, one to Interstate and one to its agent, McConnell.

Interstate contends that it is not liable for the multiple payments made to it or to its agents. It states that the paying office has a responsibility to exercise prudent management of its disbursing activity to prevent multiple payments. Interstate argues that certain language in the certificates issued by Interstate or by Star giving its agents the authority to bill for SIT charges made the certificate a conditional waiver which releases the carrier from liability in these cases. That language reads:

"The warehouse named above may voucher and receive payment from the Government as agent of carrier all S.I.T. charges authorized on Government Bill of lading described above; such charges to be audited before payment as carrier assumes no liability for overpayment unless billing is tendered directly to carrier."

These Government bill of lading contracts between the Government and Interstate for the transportation of household goods are single unified transactions. They included a requirement for storage before delivery at destination. Interstate or Star is responsible for transportation under these bills of lading which cover all charges including storage and demurrage; they generally are not severable into their component parts. See Pennsylvania R.R. v. Charles E. Gibson, Inc., 23 F. Supp. 857, 860 (1938); 35 Comp. Gen. 524 (1956), 43 Comp. Gen. 290 (1963). The three shipments of household goods were placed in carrier-selected storage warehouses. Therefore, Interstate (or its subsidiary, Star), in privity to the contract of carriage as evidenced by the GBLs, was the carrier properly entitled to bill and receive payment for all charges assessable for services performed pursuant to the terms of these bill of lading contracts.

Regulations issued by GSA permit the carrier to submit a bill for its services from point of origin to the point of storage in transit (SIT) upon completion of the transportation to the storage point, but prior to ultimate delivery to the owner. To obtain payment, the carrier must submit with its bill a signed certificate which should include the name of warehouse, its location and the date the household goods were delivered into SIT; the length of time SIT is permitted; a statement that the carrier hauling the shipment to the destination SIT point assumes full carrier liability for the shipment during storage and until delivery to the property owner; and an acknowledgment that payment to the carrier for transportation service from point of pickup to the point of destination storage is dependent upon ultimate delivery to the property owner. 41 C.F.R. § 101-41.309-2 (1978).

The regulations also provide that the carrier, at its option, may include a statement in the certificate allowing the warehouse as the designated agent of the carrier to voucher and receive payment from the Government in the name of the carrier for the SIT and delivery-out charges authorized on the GBL. 41 C.F.R. § 101-41.309-2(b)(3) (1978). The agent warehouseman can be paid if "the bill is submitted in the name of the principal," although the checks drawn in the name of the principal may be mailed to the agent. 41 C.F.R. § 101-41.310-4(a)(3), (4) (1978). This was the procedure followed in these three cases.


The regulations which provide that the agent of a carrier may bill and receive payment when there is SIT pending delivery of household goods were promulgated in order to implement the so-called Anti-Assignment statutes, 31 U.S.C. 203 (1976) and 41 U.S.C. 15 (1976).

The courts have declared that the purposes of 31 U.S.C. 203 are: (1) to prevent the harassment caused by multiplying the number of persons with whom the Government must deal, (2) to prevent possible multiple payment of claims, (3) to make unnecessary the investigation of alleged assignments, powers of attorney and other authorizations, (4) to enable the Government to deal only with the original contractor (claimant), and (5) to save to the United States defenses which it has to claims by an assignor by way of setoff and counterclaim which might not be applicable to an assignee. United States v. Shannon, 342 U.S. 288 (1952); United States v. Aetna Casualty and Surety Co., 338 U.S. 366 (1949). Given this court language, deviations from the regulations which obfuscate the purpose of the statutes are without legal basis and cannot be permitted.

The certificate issued by Interstate or by Star has all the conditions required by 41 C.F.R. 101.41.309-(2) (1978), but it provides that Interstate assumes no liability for overpayments unless certain conditions are met. Since the attempted modification varies the form of the certificate required by GSA's regulations, it is unlawful and cannot preclude the United States from collecting these overcharges from Interstate. See B-176837, September 14, 1972.

GSA's audit actions are sustained.

Acting


Comptroller General
of the United States