

DECISION



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

FILE: B-216221

DATE: October 12, 1984

MATTER OF: CVL-Forwarders

DIGEST:

1. Compromise offer submitted to carrier by agency to settle loss and damage claim does not bind an agency unless carrier timely accepts offer.
2. Where carrier does not indicate timely acceptance of compromise offer, offer may be revoked by agency, and agency may set off from monies due carrier higher amount which represents full contractual liability of carrier to agency.

CVL-Forwarders (CVL) appeals the decision of our Claims Group, denying its claim for \$72 allegedly set off erroneously by the United States Marine Corps (Corps) for loss and damage to a household shipment. The Corps deducted \$225.80, but CVL refers to a letter it received from a Corps senior adjudicator dated April 20, 1983, which CVL argues shows its liability as \$153.80. Thus, CVL concludes that it should be refunded \$72, which represents the amount deducted in excess of \$153.80.

We deny the claim.

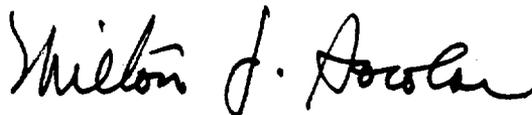
The record shows that CVL transported the household goods of First Sergeant Doty from nontemporary storage in Maryville, California, to Allyn, Washington. First Sergeant Doty submitted Department of Defense (DOD) Form 1845, Schedule of Property, showing 13 items missing or damaged. This loss and damage was discovered after the delivery. A notice of loss or damage was timely filed with CVL. This notice advised CVL of its right to inspect the damaged items. The Corps paid \$775.13 to the First Sergeant for the loss and damage under the Military Personnel and Civilian Employee's Claims Act of 1964, 31 U.S.C. §§ 3701 and 3721 (1982). The Corps reviewed the property loss and damage form and determined that the carrier owed \$225.80. This amount was based on the lower amount of 60 cents a pound released valuation or the repair cost of damaged property for each item listed in accordance with applicable household carrier agreements.

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On November 18, 1982, the carrier made an offer to settle the claim for \$27 based on its denial of liability for certain items. By letter of December 23, 1982, the Corps rejected this offer and requested that CVL reimburse the Corps for all items. On March 17, the Corps sent CVL notice that since CVL had not responded to its letter of December 23 within 30 days, setoff action would be initiated.

On March 28, 1983, the carrier wrote the Corps that it had never received the December 23, 1982, letter. On April 20, 1983, the Corps sent CVL a copy of the Corps' prior letter rejecting CVL's offer. CVL was also advised that CVL's liability was determined to be \$153.80 and that settlement for that amount would be accepted. The letter also advised that a settlement check should be forwarded to the Commandant of the Marine Corps and specified his address. The carrier did not respond to this letter and, on May 5, deduction action for \$225.80 was initiated. On June 23, 1983, CVL objected to this deduction, arguing that its liability was limited to the \$153.80 stated in the Corps' letter of April 20, 1983.

In our view, the April 20, 1983, letter was not binding on the Corps for determining CVL's common carrier liability. It is clear from this record that the Corps determined the carrier's contractual liability was \$225.80. In the course of negotiations, the Corps made a compromise offer of settlement at a lower amount. CVL failed to respond to this offer. The record shows that CVL failed to communicate its acceptance of this offer by sending its check as required by the terms of the offer. Offers may be revoked at any time prior to the creation of a contract by acceptance. See Williston on Contracts § 55 p. 176 (1959 ed.); see Mercury Van Lines, Inc., B-193964, Oct. 5, 1979, reconsidered June 27, 1980. Here, the agency revoked its offer to settle and the offer was not accepted prior to the revocation. Accordingly, the Corps properly could set off the carrier's full contractual liability.

for 
Comptroller General
of the United States