



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: A & A Transfer Storage, Inc.—Claim for Reimbursement of Amounts Collected by Setoff for Damage to Household Goods

File: B-252974.2

Date: April 27, 1995

DIGEST

The General Accounting Office will not question an agency's calculation of the amount of damages to items in the shipment of a member's household goods unless the carrier presents clear and convincing evidence that the agency acted unreasonably.

DECISION

This is in response to a request by Mr. Robert D. Walker, Sr., on behalf of A & A Transfer & Storage, Inc., for reconsideration of our decision B-252974, Oct. 22, 1993, regarding A & A's claim for reimbursement of amounts collected by setoff for damage to items in a shipment of household goods. In our decision we remanded the claim to the Air Force for reassessment of damages claimed for two speaker systems. We, however, did not change the settlement by our Claims Group regarding damages claimed for other items in the shipment. For the following reasons we deny the carrier's claim for further reimbursement. We are in accord with an offer made to the carrier by the Air Force to reduce the amount assessed to the carrier to cover the cost of repairing water damage to the speaker cabinets .

In its settlement the Claims Group had said that the Air Force had established a prima facie case of carrier liability regarding water damage to a file cabinet, radio, and two speaker systems in the household goods shipment of Master Sergeant Malcolm K. Wilson while those items were under the control of A & A under Government Bill of Lading No. PP 593,832. Because there was a question regarding the cause of tear damage to the speaker cones, our 1993 decision, cited above, concluded that prima facie liability had not been established as to this damage, and we remanded the claim to the Air Force for reassessment of damages for the speakers. Based on its reassessment, the Air Force reduced the amount it assessed A & A for the water damage to the speaker cabinets, but did not address the issue of the tear damage to the speaker's cones. Accordingly, the Air Force offered to refund \$86.66 of the amount previously set off against A & A. The Air Force stated that the offer was based on a review of the file, rather than on a new repair estimate, given the passage of six years since the occurrence of the damage. The Air

Force pointed out that the depreciated replacement value of the speaker system, at \$176.76, was "low," and limited the amount it could assess the carrier for damage to the speakers (presumably explaining why the Air Force did not reach the issue of damage to the speaker cones).

Mr. Walker appeals the amount of the refund, seeking a return of the full amount of the setoff for the speakers. He has also presented arguments against the amount collected by setoff for damage to the file cabinet and radio.

A prima facie case of carrier liability is established by a showing of tender, failure to deliver or delivery in a more damaged condition, and the amount of damages. The burden then shifts to the carrier to show that it is free from negligence. See Missouri Pacific Railroad Co. v. Elmore & Stahl, 377 U.S. 134 (1964).

This Office generally will not question an agency's calculation of the amount of damages to items in a shipment of household goods unless the carrier presents clear and convincing evidence that the agency acted unreasonably. See Ambassador Van Lines, Inc., B-249072, Oct. 30, 1992.

While we originally questioned the second element required for the establishment of prima facie liability regarding the speakers because of internal damage to them, the Air Force's response, limiting its assessment to water damage to the exterior of the speakers, is not unreasonable. It is our view that prima facie liability is thus established.

We have examined Mr. Walker's arguments regarding the Air Force's calculation of damages for the file cabinet and radio as well as the recalculation of damages for the speakers. We find no credible evidence that the Air Force has acted unreasonably and therefore will not question its calculation of the amount of damages. See B-249072, supra.

Therefore, except for the Air Force's refund offer regarding the speakers, we deny A & A's reimbursement claim.

/s/ Seymour Efros

for Robert P. Murphy
General Counsel