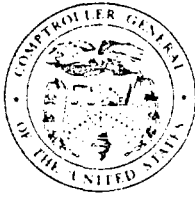


DECISION



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

60142

97756

FILE: B-183259

DATE: NOV 11 1975

MATTER OF: Ultra Special Express

DIGEST:

For purposes of assessing charges carrier has a duty to measure shipment after loading shipment and prior to transporting goods. Additional charges resulting from erroneous measurements, even if originally supplied by the shipper, are not payable by the Government.

Ultra Special Express has requested a review of the settlement action taken on its claim for \$150.55, representing additional charges for the transportation of a crated radar antenna reflector from Melville, New York, to Portsmouth, Virginia, under Government bill of lading (GDL) H-2158537, dated January 22, 1973. The carrier's bill number is 548.

The \$115.50 allowed on the claim was deducted from an overcharge of \$775.52 found in the examination of the original payment for the transportation involved. The balance of the overcharge, \$660.02, has been collected by deduction.

The claim and the overcharge involve the liability for increased transportation charges resulting from the rerouting of the shipment. The rerouting was required when the driver was prohibited from entering the Chesapeake Bridge Tunnel because the trailer was unable to clear the 13' 6" height marker. The carrier contends that the shipper furnished it erroneous height dimensions which were relied on for selecting the route and procuring the necessary permits. Due to this alleged mistake by the shipper, the carrier incurred additional costs, which it believes the Government has an obligation to pay.

The measurements of the crated shipment are not shown on the bill of lading. However, the shipper apparently informed the carrier of the dimensions of the shipment by telephone. The record contains a carrier document titled "Delivery Receipt" which states, among other things, that the dimensions of the crate containing the radar antenna reflector were "19' 6" x 9' 6" x 11'." Based on this information the carrier obtained

B-183259

permits for transportation of a shipment of a legal height of 13' 6". The driver learned, while en route, that the actual height of the shipment from the ground, after loading, was 13' 8". There is no evidence to support the contention that the measurement furnished by the shipper, prior to loading, was erroneous. And without that evidence, we cannot concede that the shipper's measurement was incorrect. However, even if the shipper was in error, this would not justify allowance of any additional transportation charges.

It is settled that the carrier has a statutory duty to issue bills of lading. 49 U.S.C. 20(11) (1970); 39 Comp. Gen. 678 (1960; Valco Manufacturing Co. v. C. Rickard & Sons, Inc., 92 A. 2d 501 (Super. Ct. N.J. 1952)). It follows then that the carrier is responsible for the information contained on the bill of lading. Exposition Cotton Mills v. Southern Ry., 234 I.C.C. 441 (1939). And the bill of lading must contain sufficient information to enable interested parties to verify the freight charges. Herst-Allen Co. v. Dorn Transfer Co., 311 I.C.C. 755 (1960). This would seem to be particularly true of bills of lading issued by heavy and specialized carriers since their charges in part are based on the dimensions of the shipment.

Further, the carrier's rate authority on this shipment incorporated by reference Heavy and Specialized Carriers Tariff Bureau Tariff 100-E, MF-I.C.C. 26. Item 1325 of that tariff states in pertinent part:

"When shipment exceeds 40 feet in length, or 8 feet in width or 13 feet 6 inches high from the ground, after loading ... the mileage from origin to destination shall be increased" (Underscoring supplied.)

In B-182110, dated January 28, 1975, involving Ultra Special Express, it was determined that for purposes of calculating charges for overwidth shipments, measurements must be taken after loading the shipment on the truck, and not before. Thus, both the tariff and the decision make it clear that the carrier has a duty to measure the shipment after loading.

Accordingly, the settlement action taken on the carrier's claim for additional transportation charges is sustained.

R. F. Keller
Deputy Comptroller General
of the United States