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DECISION

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

FILE: B-193182

DATE: June 16, 1981

MATTER OF: Paul Arpin Van Lines, Inc.

DIGEST:

Where request for reconsideration of claim presents no evidence demonstrating an error in fact or law and no arguments not previously considered, prior decision is affirmed.

The United States Army Claims Service, Department of the Army (Army), requests reconsideration of our decision in Paul Arpin Van Lines, Inc., B-193182, March 18, 1981. In that decision, we concluded that the Government had not established a prima facie case of carrier liability with regard to damage to a sofa belonging to Captain Spencer Burnett allegedly caused while transported by Paul Arpin Van Lines, Inc. (Arpin).

We determined that the record failed to establish the condition of the goods when tendered to the carrier or that the carrier delivered the property in a more damaged condition. We instructed that Arpin's claim for the \$72, setoff by the Army for the damage, be allowed.

In its reconsideration request, essentially the Army contends that contrary to our findings, the record clearly established a prima facie case of carrier liability with regard to damage to the sofa frame and to all the sofa legs.

However, we do not believe the Army has presented any additional evidence not considered in our prior decision. Nor has it shown that our decision was in error. For example, with regard to the damage to the frame, we accept the facts, as presented by the Army, that Arpin took no exception to the frame's condition at origin, that the consignee's statement of delivery noted that the sofa frame was destroyed, and that the Government inspection approximately 5 weeks after

[Request for Reconsideration]

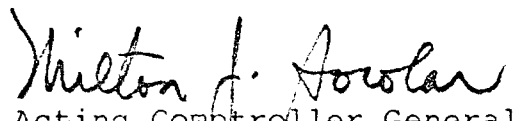
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delivery of the sofa confirmed the damage to the frame. However, as stated in our decision, it is our position that the sofa frame was not visible upon reasonable inspection because of the upholstery covering. Therefore, it is in the nature of concealed damage and the carrier accepted the shipment only in "apparent" good order and condition (contents and value unknown) as stated on the Government Bill of Lading. In our view, it is doubtful that the Government could show the condition of the frame at origin. The carrier specifically noted substantial existing damage on the GBL at origin. Under these factual circumstances, in our view, a prima facie case of carrier liability was not established with regard to the damage to the frame. See cases cited in prior decision; T.I.M.E. Freight, Inc., B-161675, June 29, 1967; Interstate Systems, B-161226, September 15, 1967.

Similarly, with regard to the damage to the legs, in our decision we noted that there was an apparent conflict in the record between the schedule of property which states "legs broken" without specifying which or how many and the inspection report which states "all legs broken." This conflict raised doubts as to whether there was additional damage to the legs, especially since the two front legs were noted on the GBL as broken prior to shipment.

In any event, we remain unconvinced that the record establishes the good condition of the legs prior to shipment given the preexisting damage noted by the carrier.

Since this request for reconsideration presents no evidence demonstrating an error in fact or law and no arguments not previously considered, our prior decision is affirmed. American Van & Storage, Inc.--Reconsideration, B-192951, March 17, 1980.


Acting Comptroller General
of the United States