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**DECISION**



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

*[Request for Relief of Liability for Excess Weight in*

FILE: B-197046

DATE: February 19, 1980

MATTER OF: Joseph S. Montalbano - Transportation of Household Goods - Excess Weight

- DIGEST:
1. Employee may not be relieved of liability for cost of shipping household goods in excess of statutory amount allowable of 11,000 pounds even though weight shown on Government Bill of Lading was significantly in excess of estimates of weight made at different times. Regardless of reasons for shipment of excess weight, law does not permit Government to incur charges.
  2. Question whether and to what extent authorized weights have been exceeded is question of fact for administrative determination and will not be questioned in absence of evidence showing it to be clearly in error.

Mr. Joseph S. Montalbano, a civilian employee of the Department of the Air Force, requests reconsideration of his alleged indebtedness of \$880.64, for excess costs incurred in the shipment of his household goods incident to a permanent change of station in 1977. The indebtedness was sustained in our Claims Division Settlement Certificate of October 10, 1979. AGC00035

The record shows that Mr. Montalbano's household goods were shipped from Bossier City, Louisiana, to Bangor, Maine, on Government Bill of Lading (GBL) No. M-1,262,313. The household goods shipment was weighed at origin and a net weight of 16,520 pounds was indicated. A re-weigh was apparently requested and made at destination and a net weight of 15,000 pounds was entered on the GBL. The carrier billed and was paid by the Government on the basis of the lower weight of 15,000 pounds. See 49 C.F.R. § 1056.6(d) (1976). Mr. Montalbano has been assessed for the transportation and storage costs applicable to the 4,000 pounds, which exceeded his authorized weight allowance of 11,000 pounds.

Mr. Montalbano says that he received earlier estimates of 7,300 to 7,800 pounds. A later estimate was made at his request in January 1979, and an estimate of 8,900 pounds was given.

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He says that the estimate and the actual weights show a 3-ton difference and that the discrepancy was caused either by fraud on the part of the carrier or another shipment was included with his and shipped on his GBL.

Section 5724(a) of title 5, United States Code, provides that the maximum weight of household goods authorized to be transported incident to a transfer is 11,000 pounds. As the 11,000-pound weight limitation is statutory, no Government agency or employee has the authority to permit transportation in excess of the weight limitation. Therefore, regardless of the reasons for the shipment of the excessive weight of household goods, the law does not permit payment by the Government of charges incurred for shipment of the excess weight. Donald F. Roach, B-194441, September 18, 1979. See also Federal Travel Regulations (FPMR 101-7) para. 2-8.2a, and para. 2-8.3b(5) (May 1973).

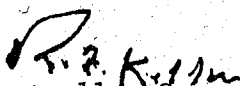
Further, the question of whether and to what extent authorized weights have been exceeded in the shipment of household effects is a question of fact considered to be a matter primarily for administrative determination and ordinarily will not be questioned in the absence of evidence showing it to be clearly in error. Fredric Newman, B-195256, November 15, 1979. The record contains two official weight certificates and there is no indication of error or fraud in their preparation. The difference in the two weight certificates was 1,520 pounds and apparently such difference is a common occurrence since the Interstate Commerce Commission (ICC) Regulations provide that the lower of the two weights should be used as a basis for the charges. 49 C.F.R. § 1056.6(d), supra. The same regulation also provides that the shipper or his representative can witness the re-weigh or the original weigh. See also 49 C.F.R. § 1056.6(a) (1976). Thus, Mr. Montalbano could have witnessed the original weigh or the re-weigh.

It is also possible, as Mr. Montalbano states, that another shipment may have been loaded on the same vehicle with his household goods. However, ICC Regulations provide that in that case the weight of the vehicle, together with one or more part loads, then becomes the tare weight as to any subsequent shipments that are loaded. 49 C.F.R. § 1056.6(a) (1976).

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The fact that the certified actual weight is considerably more than the estimated weight does not provide a basis to relieve Mr. Montalbano of liability for the excess weight of household goods shipped. Estimates are, as the word implies, "estimates" and cannot overcome the fact that the actual weight certificates indicate a much higher net weight. See Robert Y. Ikeda, B-181631, October 9, 1974, where the actual weight turned out to be 6,360 pounds over the estimated weight.

Accordingly, our Claims Division settlement of October 10, 1979, is sustained and Mr. Montalbano is indebted to the Government in the amount of \$880.64, for excess transportation costs.

  
Deputy Comptroller General  
of the United States