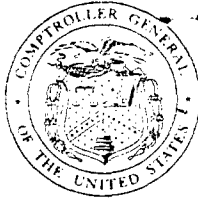


13634 TRANS

**DECISION**



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

FILE: B-197824

DATE: May 5, 1980

MATTER OF: Four Winds Van Lines, Inc.

**DIGEST:**

Amount recovered from carrier of household goods in excess of amounts paid member by Government under Military Personnel and Civilian Employees' Claims Act (31 U.S.C. 240) for total loss of household goods in transit should be refunded to carrier rather than paid to member since declaration of excess value by member on commercial bill of lading was not effective for shipment moving under Government bill of lading.

The Certifying Officer of the U.S. Army Claims Service requests an advance decision pursuant to 31 U.S.C. 82d of the [propriety of payment] to a member of the service, Major Charles P. Ahnell, of amounts recovered from a carrier for damage in transit to the household goods of Major Ahnell.

Pursuant to permanent change of station the household goods, weighing 12,120 pounds, of Major Ahnell were picked up by Four Winds Van Lines, Inc. (Four Winds), on July 28, 1978, in Ann Arbor, Michigan, for transportation to Pittsburgh, Pennsylvania, under Government bill of lading (GBL) M-3310350. The GBL also authorized 90 days storage in transit. Major Ahnell declared a lump sum valuation of \$30,000 on the carrier's commercial bill of lading No. 214-08-77.

The goods were transported to Pittsburgh, Pennsylvania, and placed in storage at George Transportation on July 29, 1978. On or about August 23, 1978, a fire at the warehouse completely destroyed the household goods. Notice of the loss was dispatched on August 25, 1978, to Four Winds by the Transportation Officer, U.S. Army Support Element, Oakdale, Pennsylvania.

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On November 29, 1978, Major Ahnell filed a claim for \$84,110.83 under the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 240-243, and an assignment to the Government of the rights of recovery of the owner was executed. The claim exceeded the maximum amount of \$15,000 allowable under the Claims Act and the claim was, therefore, approved for the maximum. Payment was made to Major Ahnell on or about June 21, 1979.

A demand on the carrier for the full amount of \$84,110.83 was executed by Major Ahnell on May 2, 1979, and was dispatched to Four Winds by the Army Claims Service. Four Winds sent a check for \$7,272 in full and final settlement based on released valuation of 60 cents per pound per article (\$0.60 x 12,120 pounds). The Army Claims Service returned the check to Four Winds and claimed \$30,000 on the basis of the lump sum declared value on the commercial bill of lading. Four Winds again sent the check for \$7,272 to the Army Claims Service stating that the Government bill of lading "specifically states that goods were released at \$.60 per pound" and the shipper did not pay for additional valuation on his shipment. Under the description of articles on the GBL a notation states: "HOUSEHOLD GOODS/REL VAL 60¢ PER LB PER ART."

The Army Claims Service forwarded the file to the United States Air Force Accounting Center for collection by setoff which was effected in the full amount of \$30,000.

The tariff or special rate authority noted on the covering GBL is "GRT 1Y" which refers to Government Rate Tender I.C.C. No. 1-Y, a tender issued under authority of section 22 of the Interstate Commerce Act applicable to the services furnished by Four Winds under the GBL contract. Provision for declared or released valuation for shipments under GBLs is made in paragraph (j) and for shipments under

commercial bills of lading is made in paragraph (k) of GRT 1-Y. Had the shipment moved under a commercial bill of lading the notation on the commercial bill of lading would have been effective to declare a valuation of \$30,000 for the shipment.

The present shipment, however, moved under a GBL and is governed by the provisions of paragraph (j), subparagraph (A) of which provides that the shipment "\* \* \* will be deemed released to a value of 60 cents per pound per article, unless otherwise specifically annotated on the Government Bill of Lading." The notation on the face of the GBL specifically states that the shipment is released to 60 cents per pound per article.

The terms of the commercial bill of lading do not form a part of the contract of carriage of a Government shipment under a GBL except to the extent that the terms are incorporated by reference. The terms of the commercial bill of lading are incorporated by reference under the terms and conditions on the reverse of the GBL except as formerly provided in 4 CFR 52 and now provided in 41 CFR 101-41. Subparagraph (b) of section 101-41.302-3 again provides that the GBL is subject to the same rules and conditions as govern shipments made on the usual commercial forms unless otherwise specifically provided or stated herein. And subparagraph (e) further provides that the shipment is made at the restricted or limited valuation at or under which the lowest rate is available, unless otherwise indicated on the face of the GBL. The lowest rate appears to be available at the 60-cent per pound valuation and the 60-cent per pound valuation is expressly stated on the face of the GBL. Therefore, the desire of the owner to provide for a higher released valuation was ineffective as a part of the contract of carriage, and, if effective at all, is effective only as a separate contract between the owner and the carrier.

As a separate contract it would seem to be only a contract for insurance. The regulations of the Interstate Commerce Commission, 49 CFR section 1056.15(a), prohibits the carrier of household goods from selling insurance to shippers. Therefore, as a contract for insurance the declaration of excess valuation also fails because it is contrary to the Interstate Commerce law.

Accordingly the amount recovered from the carrier in excess of 60 cents per pound per article should be refunded to the carrier rather than being paid to the owner of the household goods.

*Milton J. Fowler*

For the Comptroller General  
of the United States