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DECISION



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

Request for Review of GSA Settlement Action

FILE: B-199289

DATE: November 24, 1980

MATTER OF: Freeport Fast Freight, Inc.

DIGEST:

1. In determining whether billing carrier is last (delivering) carrier in privity with contract of carriage, and entitled to payment of transportation charges under 41 CFR 101-41.302-3(a)(1) and 101-41.310-4(a)(1), General Services Administration (GSA) regulations authorize Government agency to look to properly accomplished, covering Government bill of lading (GBL).
2. Under Transportation Payment Act of 1972, 49 U.S.C. 66(c) (1976), and Government payment regulations, "properly accomplished" GBL is one on which billing carrier certifies that it made delivery, there being no need for consignee's certificate.
3. Where billing carrier was issued GBL, it actually performed major part of transportation services, and presented properly accomplished GBL showing it as delivering carrier, Government agency correctly paid origin (billing) carrier, even though claimant actually performed delivery.

Under 4 CFR Part 53 (1980), Freeport Fast Freight (Freeport) requests review of settlement action taken by the General Services Administration (GSA) on Freeport's claim for transportation charges relating to a shipment of Government property that was transported from Richmond, Virginia, to Rock Island, Illinois, on Government bill of lading (GBL) N-0056810, dated July 18, 1978.

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The claim for \$714.86, which was initially filed with the United States Army Finance and Accounting Center, in April 1979, was denied by that agency for the reason that the transportation charges had been paid to B&P Motor Express, Inc. (B&P), in September 1978.

In support of its claim before the GSA and in this Office, Freeport contends that the Government erroneously paid B&P. The claimant asserts that the error arises because Freeport was the delivering carrier, and as the last carrier in privity with the contract of carriage it was entitled to payment.

The GSA disallowed the claim, contending that even if Freeport actually was the delivering carrier the Government correctly paid B&P because evidence on the original GBL, which was presented by B&P, established that B&P delivered the shipment, and that by the terms of the GBL, as expressly governed by Title 41, Subpart 101-41.3 of the Code of Federal Regulations, identification of the "last" carrier is properly made by reference to evidence on the covering GBL.

We agree with GSA that 41 CFR 101-41.302-3(a)(1) and 41 CFR 101-41.310-4(a)(1) permit the paying agency, generally, to rely on a properly certified, original GBL to determine whether the billing carrier is the last carrier in privity with the contract, and to pay that carrier, even though another carrier actually delivered the shipment.

Prior to 1974, Government regulations dealing with the presentation and payment of transportation bills were set forth on the reverse of the GBL, and in Title 4 of the Code of Federal Regulations, whereas now they are published in 41 CFR Subpart 101-41.3. See 58 Comp. Gen. 799, 801 (1979). Also the GBL was revised, and among other changes permitted certification by the authorized billing carrier rather than the consignee as to delivery of the consignment. In our pre-1974 decisions we held that payment of transportation charges is correctly made when the billing carrier presents a properly accomplished or certified GBL indicating that the property was received in apparent good order and condition from the claimant, and payment is made in good

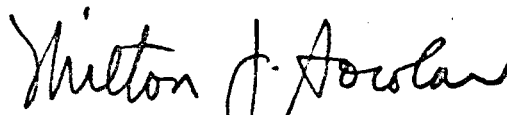
faith. See B-172981, May 27, 1971, and B-171825, May 10, 1971. These decisions, which involved Condition 1 of the GBL and previous regulations of this Office, contemplated that a "properly accomplished" GBL was one on which the consignee's certificate of delivery had been signed by the consignee. See A-24222, July 9, 1971.

Thus since enactment of the Transportation Payment Act of 1972, Pub. L. No. 92-550, 86 Stat. 1163, 49 U.S.C. 66(c), and the revised Government payment regulations, the meaning of "properly accomplished or certified" GBL has changed in that the carrier no longer is required to obtain an accomplished consignee's certificate of delivery on the original GBL to receive payment. B-182952, February 27, 1975. Now, the billing carrier certifies that it has made delivery. In relation to the paying agency's good faith, we see no difference in the legal effect of the consignee's certificate under prior procedure, and the carrier's certificate of delivery under current procedure.

Here, B&P certified on the original GBL that it was the delivering carrier; and the claimant concedes that B&P actually transported the shipment from its origin in Virginia, to Chicago, Illinois (where it was transferred to Freeport for delivery to Rock Island). The GBL was issued to B&P, the only carrier shown thereon and B&P presented the GBL to the paying agency for payment. Therefore, since the GBL was regular on its face and otherwise in good order for payment to the last carrier which is shown as B&P on the certificate of delivery, the Army Finance Office was correct in making payment to B&P. The Government has no legal obligation to distribute monies apparently properly paid to the billing carrier. B-171825, supra.

Freeport's payment to B&P of its interline revenue share, \$478.96, in anticipation of being paid by the Government, and the bankruptcy of B&P are not legally relevant facts.

Accordingly, GSA's settlement is sustained.



For the Comptroller General
of the United States