

DECISION

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

*PLM-2
Ersterwood
118974*

FILE: B-206951

DATE: July 12, 1982

MATTER OF: Major James S. True, USAF

- DIGEST:**
1. A weight certificate and weight tickets, which were regular on their face, produced by a certified weighmaster to determine the weight of a household goods shipment and which indicated that the shipment's weight greatly exceeded the authorized shipping weight, can be rebutted. An Air Force member who produced substantial evidence including professional weight estimates made by Air Force employees showed that mover's weight certificate and tickets were clearly in error and invalid.
 2. Air Force, apparently erroneously assuming that a mover's weight certificate and weight tickets could not be rebutted, initially failed its responsibility to determine the constructive weight of a household goods shipment even though the weight tickets and certificate were shown by substantial evidence to be clearly in error and invalid. However, where the mover admits weight certificates are invalid and, based on lower constructed weight, recomputes and partially refunds charges, the service's acceptance of the lower constructive weight which is supported by evidence of record will not be questioned by GAO since whether and to what extent authorized weights have been exceeded are questions of fact primarily for administrative determination.

Major James S. True, USAF, appeals a settlement of our former Claims Division which denied his claim for reimbursement of the charges collected from him by the Air Force due to the weight of a shipment of his household goods exceeding his authorized weight limitation. Although weight tickets and a weight certificate submitted by the mover in support of the mover's charges initially established the excess weight, and the corresponding excess charges were collected from Major True by the Air Force, these weight tickets were later admitted

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by the mover to be incorrect. The mover established a lower constructive weight than was initially established by the weight tickets and refunded that part of the charges initially collected on the higher weight to the Air Force, which remitted it to Major True. Major True now claims the part of the charges representing the difference between the charges for his authorized weight and the charges for the higher constructive weight established by the mover. Since the record does not establish that the shipment's weight was in fact the authorized weight, and since the evidence of record supports the Air Force's determination to accept the mover's constructive weight as reasonable, there is no basis for allowing the claim.

In connection with a permanent change of station in June 1976, Major True (then a captain) was authorized to move 11,000 pounds of household goods at Government expense from Shaw Air Force Base, Sumter, South Carolina, to Wright-Patterson Air Force Base, Dayton, Ohio. The household goods were moved in a moving van, were the only shipment on the van, and were weighed near Shaw Air Force Base. The weight tickets indicated that the shipment weighed 20,940 pounds. A reweigh of the shipment was accomplished near Wright-Patterson Air Force Base before the goods were placed into temporary storage there, and the weight tickets indicated that the shipment weighed 21,436 pounds. While apparently Major True expected his shipment to be somewhat overweight, when he learned that the official weight of his shipment had twice been determined to be in excess of 20,000 pounds, he believed this weight to be excessive. He then requested another reweigh of his shipment upon delivery out of temporary storage into his residence at Wright-Patterson. The second reweigh was not performed as requested. Based on the two sets of weight tickets, each indicating the shipment to be in excess of 20,000 pounds, and in spite of substantial contradictory evidence he submitted, the Air Force determined that the shipment's weight was the weight established by the lower of the two sets of weight tickets. The member was charged for the part of the mover's charges pertaining to the weight in excess of 11,000 pounds--\$1,707.41. Our Claims Division disallowed Major True's claim for the excess charges on the same basis.

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We have consistently held that whether and to what extent authorized shipping weights have been exceeded in the shipment of household goods and the excess costs involved are questions of fact primarily for determination by the administrative agency which, ordinarily, we will not question in the absence of evidence showing such determinations to be clearly in error. Where the transportation voucher prepared by a mover in support of its charges is supported by a valid weight certificate or weight tickets, in the absence of fraud or clear error in the computation, the Government must rely on the scale certifications of record in computing the excess costs. Matter of Newman, B-195256, November 15, 1979. Thus, absent computational errors, or fraud, the Government is bound by a weight certificate unless the certificate is shown to be invalid. In order to show invalidity, one must show that the certificate is clearly in error. See Matter of Gilliland, B-198576, June 10, 1981.

Major True presented substantial evidence which should have prompted the Air Force to pursue with the carrier his contention that the weight charged was in error. Included in that evidence were weight estimates of the questioned move by the mover's packers and written weight estimate statements from two independent Government household packing inspectors from Wright-Patterson. These latter estimates were based on a physical inspection of the goods in Major True's house and a comparison of the inventory of the member's last move with the inventory of the questioned move. The Government inspectors' statements, along with other documentary evidence, caused the Chief of the Transportation Branch at Wright-Patterson to conclude that " * * * sufficient facts exist to rule in favor of the member."

All of the estimates indicated that the weight of the shipment was under 15,000 pounds, as compared with the lower set of weight tickets showing over 20,000 pounds. There was a range in the estimates of over 1,000 pounds, which is understandable considering the different estimators and methodologies involved. And we recognize that any estimate only represents an approximate weight, regardless how carefully it is derived or by whom it is offered. But when there was a more than 5,000-pound difference between Major True's shipment weight as represented by the

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weight tickets and all the other professional estimates, there was certainly a sound basis for the Air Force to challenge the carrier. The Chief of the Transportation Branch at Wright-Patterson recognized this when he recommended ruling in favor of Major True. At this point the Air Force should have determined the weight tickets to be invalid. It should have established a constructive shipment weight from the evidence available (as is routinely done for shipments involving loss and damage), and should have settled with the mover and Major True on the basis of the constructed weight.

It appears that the Air Force failed to find the weight certificate and tickets invalid because of an incorrect perception that these documents, apparently valid on their face, could not be rebutted. Headquarters, Air Force Accounting and Finance Center, in submitting Major True's claim to our Office, stated, "The file contains no evidence that can be used to legally refute the certified weights provided by the carrier." This statement is based on the general rule that neither estimates by drivers, packers, inspectors, and members, nor comparisons of the weight of a questioned move to prior and subsequent moves are sufficient to invalidate a weight certificate. However, the general rule does not require that a weight certificate is never refutable. Our prior decisions have shown that, in unusual situations, a weight ticket or certificate, produced by a certified weighmaster and apparently regular on its face, is rebuttable. See Matter of Schmidt, B-199780, April 8, 1982, 61 Comp. Gen. ____; Matter of Gilliland, cited above.

After the Air Force and our former Claims Division rejected the claim, the mover advised the Government by letter dated November 13, 1980, that they had "* * * determined that the initial weight of 20,940 pounds was in fact inaccurate * * *." They constructed a revised weight of 13,340 pounds and sent a check to the Government covering the difference in charges based upon the difference between the initial weight and the constructed weight. As a result the Air Force readjudicated Major True's claim on the basis of the 13,340-pound constructive weight and refunded to him all but \$240.22 that had previously been collected. However, Major True made a further

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claim based on his view that the Government had no basis for claiming any excess weight costs on the move. The Air Force resubmitted this claim to us stating:

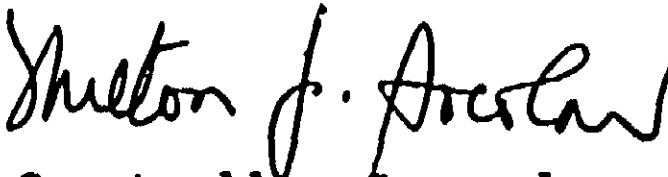
"* * * in order to eliminate all excess cost, the carrier would be required to reduce the weight and cost to within the member's weight allowance. * * * we feel the collection [\$240.22] * * * is within an area of reasonableness and total reimbursement is not warranted * * *."

Everyone now agrees that the weight certificates were invalid and in error. While it is unfortunate that Major True was put to the trouble and inconvenience of proving this, the invalidation of the weight certificates does not mean that the Air Force may not claim excess weight costs in the move. The Schmidt and Gilliland cases referred to above show that after an invalidation of weight tickets occurs, the weight of the shipment must be determined by other means.

Included in the evidence of the weight of the goods transported were various estimates which indicate that the weight of the shipment was substantially below the 20,940 pounds on which the charge was based, but not as low as 11,000. The carrier's packers estimated the shipment to be "in the vicinity" of 13,000 pounds. Two estimates predicated on joint military/industry weight tables result in weights of 13,165 and 13,769 pounds. Estimates made by two Government inspectors based upon inspection of the goods in Major True's home were 14,500 and 14,700 pounds. Major True has calculated the weight of the shipment in various ways. His minimum estimate, based upon adjustments to the weight of a subsequent shipment, was 11,825 pounds. Other estimates he made in the course of his efforts to have the overcharge readjusted included 13,769 pounds using a standard weight table and a physical inventory of his goods, and 14,700 pounds using an industry standard of 40 pounds per line item. Since the determination of the shipment's weight is primarily the responsibility of the Air Force and based on the evidence

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submitted, we find the determination of the Air Force to accept the mover's 13,340-pound constructed weight is reasonable. Therefore, the amended claim for \$240 22 is denied.

for 
Comptroller General
of the United States