



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Gustavo R. Martinez--Excess Household Goods
Shipping Weight Charges--Effect of Carrier's
File: Rates
B-227581
Date: February 16, 1988

DIGEST

1. An employee may not be relieved of his debt for excess weight of his household goods shipped incident to an official change of station. The weight allowance was established by law and there is no authority to exceed it notwithstanding that the carrier may have underestimated the weight, or that the agency may not have fully counseled the employee as to his entitlements.
2. The carrier's method of assessing transportation charges (billing 11,720 pounds as 12,000 pounds at a lower rate) does not provide a basis for permitting payment by the government for a shipment of household goods in excess of an employee's authorized 11,000-pound weight allowance where the statutory regulations prescribe the specific method of assessing charges for excess weight. This method is based on a ratio of the excess weight to the total weight of the shipment applied to the total charges for the shipment.

DECISION

This is an appeal of the General Accounting Office Claims Group's denial of a Veterans Administration (VA) employee's request for relief from his debt to the United States in the amount of \$411.85 for excess household goods shipping costs.^{1/} The relief requested may not be granted.

BACKGROUND

Mr. Gustavo R. Martinez was transferred from the VA Outpatient Clinic in El Paso, Texas, to the VA Central Office in Washington, D.C. His travel authorization, dated March 31, 1983, authorized the shipment of 11,000 pounds of

^{1/} Claims Group letter, Z-2860539, December 19, 1986.

household goods and personal effects using a Government bill of lading.

The shipment of household goods and personal effects, which occurred in July 1983, weighed 11,720 pounds. Mr. Martinez was billed by the VA for the charges to transport the excess of 720 pounds in the amount of \$411.85. He filed a request for waiver of this indebtedness with the VA claiming that there had been inadequate counseling by VA officials as to his weight limitation and that he was assured by the mover that his household goods would not exceed the 11,000 pounds estimated. This estimate was stated on a VA form signed by his spouse.

The request for waiver was denied by the VA on the basis that the debt was valid and there was no authority in law to waive it. Mr. Martinez requested review of the matter by our Claims Group which concurred with the VA's determination.

In his appeal Mr. Martinez asserts, in addition to his arguments concerning inadequate counseling and an erroneous weight estimate, that the carrier had advised him not to be concerned about the excess weight. This was because the shipment would be billed as 12,000 pounds at a lower rate in any event since this would result in lower overall charges than billing it at the rate applicable to the actual weight.

DISCUSSION

The payment of travel and transportation expenses of employees transferred by the government is authorized under 5 U.S.C. § 5724 (1982). At the time of Mr. Martinez's transfer the expenses of transporting household goods and personal effects were limited by 5 U.S.C. § 5724(a)(2) to an amount "not in excess of 11,000 pounds net weight."^{2/} The implementing Federal Travel Regulations, FPMR 101-7, para. 2-8.3b(5) (1983), required that when the actual weight exceeds the employee's weight allowance the excess weight charges are computed from the total charges according

^{2/} Effective November 14, 1983, the weight limitations were increased to 18,000 pounds net weight. Public Law 98-151, 97 Stat. 977. This increase was effective after Mr. Martinez's shipment; thus, it does not apply in his case.

to the ratio of excess weight to the total weight of the shipment.^{3/}

Although Mr. Martinez may not have been fully counseled on his entitlements, his travel authorization clearly stated that his weight allowance was 11,000 pounds. In any event, inadequate counseling or erroneous advice by the agency do not provide a basis for relieving an employee from liability for exceeding the statutory weight limit. See Donald F. Roach, B-194441, Sept. 18, 1979, and Dale C. Williams, B-214596, Aug. 29, 1984. Likewise, erroneous estimates or representations made by a carrier's agents do not provide grounds for authorizing an employee to exceed his weight allowance. Rayburn C. Robinson, Jr., B-215221, Sept. 5, 1984.


As to the carrier billing for the line-haul transportation on the constructive basis of 12,000 pounds at a lower rate, while that may affect the amount of the line-haul charges, it does not change the fact that a pro rata amount of those charges for the excess weight must be collected from Mr. Martinez. As is indicated above, the FTR requires that when a shipment exceeds the employee's weight allowance, collection is to be made based on the ratio of the excess weight to the total weight applied to the total charges. The total charges include not only the line-haul charge, but also the charges for packing, unpacking and other accessorial charges. The method of determining the amount of the charges applicable to the excess weight is prescribed in the regulations which have the force and effect of law and may not be waived by the employing agency or our Office. See James Knapp, B-216723, Aug. 21, 1985; William L. Brown and William A. Schmidt, B-199780, Feb. 17, 1981; and Ronald E. Adams, B-199545, Aug. 22, 1980. Clearly, the law and regulations prescribed the government's maximum liability for transportation and related expenses and the employee's liability for any excess charges in terms of actual net weight--not household goods carriers' methods of assessing transportation charges.

Accordingly, the denial of Mr. Martinez's request for relief from his debt is sustained.

We have been informally advised by a representative of the General Services Administration's transportation rate audit staff that it appears that the carrier may have used a higher line-haul rate than the lowest rate applicable to this shipment. Therefore, we suggest that the VA request a

^{3/} The formula used in this case was $720/11720 \times \$6,704.06 = \411.85 .

determination by GSA of the total charges for the shipment prior to collecting from Mr. Martinez.

for 
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