



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Paul Rodriguez - Transportation Debt Waiver -
Household Goods Insurance

File: B-229107

Date: August 22, 1988

DIGEST

Based on erroneous agency information an employee, expecting to pay \$150, placed insurance on his household effects being transported at government expense from Puerto Rico to New York. The insurance actually cost \$900, and the employee requests waiver of the \$750 the agency paid the carrier for the employee's insurance in excess of the \$150. Since the employee's debt resulted from the erroneous advice of his agency, it is considered to have arisen out of an erroneous payment and is subject to consideration under the waiver statute. We concur with the agency's recommendation to waive the \$750.

DECISION

Mr. Paul Rodriguez, an employee of the U.S. Department of Agriculture, was authorized to ship his household effects from Puerto Rico to New York under a Government Bill of Lading (GBL) in August 1986.^{1/} He desired insurance on the household goods and was advised by his employing agency that the cost to him would be 50 cents for each \$100 of valuation. Based on this advice, he chose to insure his goods for \$30,000 at an expected cost of \$150 for which he would be responsible.

The agency had given Mr. Rodriguez erroneous advice, and in fact, the applicable insurance rate was \$3 per \$100 valuation. The rate quoted to Mr. Rodriguez was applicable only to domestic shipments and not those emanating from overseas. Consequently, upon shipping his goods, Mr. Rodriguez incurred insurance costs of \$900 and not \$150, as expected. Following its authorized practice, the agency paid the

^{1/} This case originally was submitted to our Claims Group by Larry Wilson, Acting Director of the Office of Finance and Management, U.S. Department of Agriculture.

carrier for all costs associated with shipping the goods including the insurance costs, and it then billed Mr. Rodriguez for the \$900. However, the agency has recommended that \$750 be waived. We agree with this recommendation.

As amended by Public Law 99-224 (December 28, 1985), § 1, 99 Stat. 1741, section 5584(a) of title 5, United States Code (Supp. III 1985), authorizes the waiver of--

"A claim of the United States against a person . . . arising out of an erroneous payment of travel, transportation or relocation expenses and allowances, to an employee of an agency, the collection of which would be against equity and good conscience and not in the best interests of the United States"2/

This waiver authority, however, applies only to claims "arising out of an erroneous payment." Thus, before a claim can be considered for waiver, it must be determined that the claim arose from an "erroneous payment" within the scope of the waiver statute.

It is the long-standing and standard practice of government agencies to ship a qualifying individual's household goods at government expense and to then collect any charges for excess weight or extra services such as insurance from the individual.

When a household goods shipment is made under this system, the GBL constitutes a contract between the government and the carrier under which the carrier is entitled to be paid for its services. Therefore, we have concluded that there is no "erroneous payment" for purposes of the waiver statutes where the government in the first instance pays or bears the cost of a household goods shipment which exceeds the applicable weight allowance in reliance on collection of the additional charges for the excess weight from the employee in accordance with the standard procedure described above. In these circumstances, the government has committed no "error," but has merely made payment in the normal course of business to satisfy its obligation to the carrier. See

2/ This additional authority to waive claims arising out of erroneous travel or transportation payments is applicable to payments made on or after the effective date of the new legislation, December 28, 1985. See Public Law 99-224, § 4, supra. The payment was made in Mr. Rodriguez's case in 1986; thus, it is covered by the statute.

B-229337, June 21, 1988, 67 Comp. Gen. _____. The same rule applies in the case of extra services such as insurance requested by the employee. Thus, the initial payment of additional charges for insurance, like the payment for excess weight, by an agency in accordance with this standard practice is not "erroneous," and claims against employees arising from such payments may not be considered for waiver under the waiver statute, 5 U.S.C. § 5584. See B-229337, June 21, 1988, 67 Comp. Gen. _____.

In B-229337, supra, we recognized, however, that there might be some cases where excess weight charges were incurred as the result of government error, such as where the excess weight was shipped on the basis of erroneous authorizing orders. We noted that these unusual cases should be dealt with on a case-by-case basis. Id. This rule would also be applicable to extra charges for insurance where it is clear that the charges were incurred by the employee in reliance on erroneous advice.

In the present case, the agency indicates that Mr. Rodriguez's debt for the additional \$750 above what he expected to pay for insurance arose solely from the clearly erroneous advice he received from the agency. This is not in issue. Indeed, the agency is recommending waiver because it considers that its erroneous advice was what caused the claimant to incur the \$750 debt, implying that he would not have requested the insurance had he been apprised of its true cost. The agency did forward to us a copy of a letter the carrier indicates it sent Mr. Rodriguez shortly before the move in which the correct insurance rates are quoted; however, Mr. Rodriguez states unequivocally that he never received this letter nor any other insurance cost advice from the carrier. His statement was accepted by his agency; we see no reason to question it. Thus, we consider Mr. Rodriguez to have acted in good faith and to be free from fault in this matter.

Accordingly, we hold that collection action would be against equity and good conscience. Therefore, Mr. Rodriguez's debt of \$750 arising from the erroneous information he received is waived.

for Milton J. Fowler
Comptroller General
of the United States