



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: American International Moving, Corp.

File: B-247576.2

Date: September 2, 1992

DIGEST

Prima facie case of carrier liability for the loss of clothing from an undelivered carton labeled "linen" is established where the agency points out that it would not have been unusual for the clothing to have been packed in that carton, and the carrier packed the shipment and was responsible for preparing the inventory; it is not reasonable to conclude simply from the carrier's own labeling and inventorying decisions that the items never were tendered to the carrier.

DECISION

American International Moving, Corp. requests review of our Claims Group's denial of American's claim for a refund of \$470.99 set off from funds otherwise due the carrier for the loss of an Air Force member's household goods. We affirm the settlement.

The carrier picked the shipment up on November 14, 1989, and delivered it on January 8, 1990. The set-off was for the loss of shoes, jeans, shirts, pants and a jacket that the member claimed were in inventory item number 63, an undelivered 4.5 cubic foot carton labeled "linen" on the inventory;¹ the shipper did not claim the loss of any linen, however.

The Air Force concluded that (1) it is not unreasonable to believe that clothing would be packed with linen, and (2) the fact that inventory items 64-67 were cartons of clothes suggests that the five cartons were packed at the same time. The Air Force set the money off on that basis, and our Claims Group agreed with such action in its settlement. In

¹The member claimed that he bought the shoes in May of 1989, and the other items in August.

requesting further review, American objects to being held liable for the loss of clothing in view of the carton's inventory description as "linen."

In order for a carrier to be held liable for the loss of a shipper's household items, the shipper must first establish a prima facie case of carrier liability; the first element of a prima facie case is proof that the shipper tendered the lost property to the carrier. The burden then shifts to the carrier to prove that it was not liable for the loss. Cartwright Van Lines, B-241850.2, Oct. 21, 1991.

We have held a carrier liable for items claimed lost from a carton that do not exactly fit the carton's inventory description where it would not have been unusual to pack those items in such carton, particularly where the carrier did the packing and prepared the inventory list. In Carlyle Brothers Forwarding Co., B-247442, Mar. 16, 1992, we found the carrier liable for drapes alleged to be missing from a carton labeled "clothes" and for halloween decorations alleged missing from a carton labeled "Christmas tree"; we said that it would not be reasonable to conclude from the carrier's own inventorying and labeling decisions that items like those claimed lost were not tendered. On the other hand, in that same case we absolved the carrier of liability for the claimed loss of a shotgun from a carton labeled "Wardrobe stuffed animals." See also, Cartwright Van Lines, supra (carrier liable for a camera alleged missing from a box labeled "storage closet items" and for tennis rackets from a box labeled "shed items").²

As American points out, the clothing claimed missing does not relate directly to the label on the carton that was not delivered. As indicated above, however, even an indirect relationship can be adequate for purposes of a prima facie case against the carrier. Here, the record shows that American was timely advised that inventory item 63 was not delivered, and the fact is that there must have been something other than linen (which the member did not claim missing) in that carton. Further, we cannot dispute the Air Force's view that it would not be unreasonable to pack clothing with linen. Accordingly, we think that the record supports tender of the clothing in issue to American, which the carrier packed in a box that it labeled "linen," and thus a prima facie case of carrier liability for the loss.

²In the cases cited in this paragraph, the cartons from which the items were claimed missing actually were delivered.

The Claims Group's decision is affirmed.

for *Seymour Epps*
James F. Hinchman
General Counsel