



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Captain R. K. Kershenstein, USAF

File: B-248267

Date: September 24, 1992

DIGEST

Where member was authorized to ship 1,300 pounds of household goods overseas to weight restricted country but due to surface carrier restrictions at overseas base on the weight that could be returned to United States (600 pounds) and fact that initial orders did not note this restriction, claim for excess weight charges which normally are not for waiver as erroneous payment under 10 U.S.C. § 2774(a) may be waived as exceptional case under 67 Comp. Gen. 484 (1988).

DECISION

Captain R.K. Kershenstein, a member of the United States Air Force, has requested waiver of the claim of the United States in the amount of \$1,329.14 resulting from the excess cost of shipping his household goods from Pirincliik Air Station, Turkey to Maxwell Air Force Base, Alabama.

On June 19, 1989, Captain Kershenstein was transferred from Hanscom Air Force Base, Massachusetts to Pirincliik Air Station, Turkey. Since Turkey was a weight restricted country, Captain Kershenstein was advised that he could only ship 10 percent of his weight authorization (13,000 pounds) or 1,300 pounds, which he did.

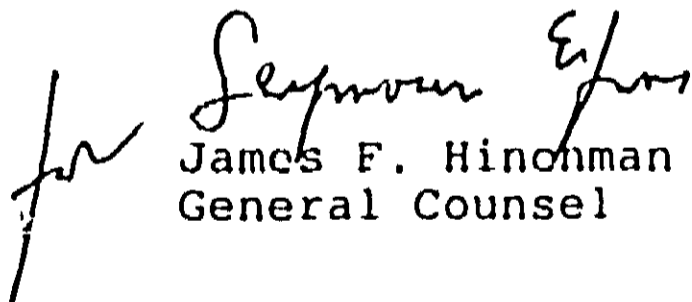
On October 1, 1990, Captain Kershenstein was transferred to Maxwell Air Force Base, Alabama and was told that he could only ship 600 pounds of unaccompanied baggage by air because Pirincliik had no capability for making surface carrier shipments, only air shipments. Since Captain Kershenstein had shipped 1,300 pounds of household goods to Turkey and Turkish law required that all items taken into the country must be taken out, Captain Kershenstein shipped his household goods back to the United States and has been charged the excess cost of \$1,329.14.

The authority for the waiver of claims arising out of erroneous travel or transportation payments is 10 U.S.C. § 2774(a). However, by its express terms, this waiver authority applies only to claims "arising out of an erroneous payment" and we have held that excess weight charges paid under the Government Bill of Lading system to a carrier for the movement of household goods is not an "erroneous payment," 67 Comp. Gen. 484 (1988). The government committed no error in making the payment but merely made the payment in the normal course of business to satisfy its obligation to the carrier who made the shipment. Therefore, as a general rule, claims for excess weight charges may not be considered for waiver under 10 U.S.C. § 2774(a).

However, in the 1988 decision, we recognized that there may be cases where the excess weight charges were incurred as a result of government error such as erroneous authorizing orders and we stated we would consider this type of cases on a case by case basis.

We find this to be such a case. Captain Kershenstein had shipped 1,300 pounds to Turkey and assumed that weight could be returned without incurring any excess weight charges. However, the initial orders were deficient for not noting the 600 pound restriction on baggage shipments leaving Pirincliik Air Station.

Therefore, based on the facts involved here, we find that the claim may be waived because of the erroneous orders which resulted in Captain Kershenstein incurring the excess weight charges.

for
James F. Hinsonman
General Counsel