Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: American Intercoastal Movers, Inc.—Claim for Reimbursement of Amounts Collected by Setoff for Damage to Household Goods

File: B-265689

Date: February 22, 1996

DIGEST

1. When a case of prima facie case of carrier liability has been established, the burden shifts to the carrier to prove that it was not negligent and that the damage resulted from an excepted cause which relieves it of liability. A mere statement that damage apparently arose from heat or climatic conditions does not constitute such proof.

2. A carrier is not relieved of liability for damage to an item of household goods merely because it was not able to inspect the item at the time its inspector visited the owner's home.

DECISION

This is in response to an appeal of a Claims Group settlement[1] which denied the claim of American Intercoastal Movers, Inc., (American) for reimbursement of amounts collected by setoff for damage to a shipment of household goods. We affirm the Claims Group's settlement.

American picked up the household goods of Senior Master Sergeant John K. Keller, USAF (Retired), under government bill of lading UP-037,849 in Waldorf, Maryland, on February 26, 1991. The shipment was delivered in Albuquerque, New Mexico, on May 3, 1991. American claimed reimbursement of $2,117.73, the amount collected by setoff for damage to the shipment. The Claims Group denied American's claim except for $245 which the Air Force offered to refund. In its appeal American now disputes three items, for which it claims reimbursement in the amount of $1,175.74.

The three disputed items are a dining table, a wall unit, and skis. American attributes damage to the table and the wall unit to climatic conditions or heat, for

[1]Z-2868356(2), dated July 5, 1995.

which it is not liable. American denies liability for the skis because it was unable to inspect them.

A prima facie case of carrier liability is established by a showing of tender of the goods to the carrier in a certain condition, delivery in a more damaged condition, and the amount of damages. When a prima facie case of liability has been established, the burden shifts to the carrier to prove that it was free from negligence and that the damage resulted from an excepted cause relieving the carrier from liability. See Missouri Pacific Railroad Co. v. Elmore & Stahl, 377 U.S. 134, 138 (1964).

In the present situation, the inventory indicates that the items in question were tendered. Damage was observed at delivery or soon thereafter, and the carrier was notified of the amount of damages. Therefore, a prima facie case of carrier liability has been established, and the burden is on American to rebut its liability.

Regarding the dining room table and wall unit at issue, the fact that the veneer was cracking was noted at delivery. On DD Form 1840[2] there is a notation that the damage was apparently caused by heat, and American alleges that the cause was climatic change for which it is not responsible. However, the Air Force Claims Analysis Chart for the shipment lists the cause as water damage. American has not presented any proof of its allegation that heat or climatic changes were responsible other than a comment by its inspector. The Air Force determined that the damage was transit-related and that American was liable for it. Since American has not presented evidence to rebut its liability, its claim as to those items is denied. See Allied Intermodal Forwarding, Inc., B-261308, Nov. 9, 1995.

The Air Force Notice of Loss or Damage (DD Form 1840R) dispatched to American on July 16, 1991, noted damage to a pair of skis (binding and laminate separated) which had not been noted on the DD 1840 at time of delivery. American denies liability, arguing that it was unable to inspect them. The skis were not at the member's home when the carrier's inspector visited to inspect the damaged goods in August 1991. The record does not indicate any other attempt by the carrier to inspect the skis, nor is there any showing that the owner intentionally denied the carrier's right to inspect.[3] Therefore, in these circumstances, the carrier is not

---

[2]Joint Statement of Loss or Damage at Delivery, apparently completed at delivery on May 1, 1991.

[3]The record indicates that the owner was not at home when the carrier's inspector visited; the inspector was admitted to the residence by the owner's son. The Air Force report notes that the carrier has not shown that it aggressively protected its

(continued...)

relieved from liability due to lack of an inspection. See Continental Van Lines, Inc., B-215559, Oct. 23, 1984; modified in part and affirmed in part by B-215559, Aug. 23, 1985.

American also argues that depreciated value of the skis is less than the repair cost used by the Air Force in its collection action, but has presented no evidence to support its argument. This Office will not question an agency's determination as to the value of damage to household goods in the absence of evidence that the agency acted unreasonably. See Ambassador Van Lines, Inc., B-249072, Oct. 30, 1992. American has presented no such evidence.

Accordingly, we affirm the Claims Group's settlement.

/s/Seymour Efros
for Robert P. Murphy
General Counsel

---

[3](...continued)
inspection rights nor sought the assistance of the Air Force Claims Office in arranging the inspection.