



Comptroller General
of the United States

115919

Washington, D.C. 20548

Decision

Matter of: American Van Services, Inc.

File: B-252975

Date: September 8, 1993

DIGEST

Carrier is not liable for damage to an item in a shipment of household goods where the record shows that the item already was damaged in the same respect when the carrier picked it up for delivery.

DECISION

American Van Services, Inc., appeals a settlement by our Claims Group addressing an Air Force set-off of \$448.05 from funds otherwise due the carrier for damage to an Air Force member's household goods.¹ The Claims Group found that American properly was held liable for damage to a bed frame, a table leaf, and a watch, except for an Air Force miscalculation concerning the watch that overstated the carrier's liability by \$19.50.

We affirm the settlement on the bed frame and watch, but we reverse it on the table leaf.

American argued that the problems with the bed frame and the watch constituted mechanical malfunctions for which it should not be held responsible, and questioned the bed frame estimate. The Claims Group disagreed as to the characterization of the damage - the bed springs were broken, and the watch stem had broken off - and saw no reason to question the repair (watch) and replacement (bed) estimates; the Claims Group therefore endorsed the Air Force settlement regarding those items. In its appeal, American basically restates the position it argued to the Claims Group. We have reviewed the record, and we see no basis to disagree with the settlement.

American also argues that the settlement improperly holds it liable for pre-existing damage to the table leaf. We agree.

¹The goods moved under Government Bill of Lading TP178,618. The settlement involved that part of the total set-off of \$636.60 that was in dispute.

The inventory describes the leaf as scratched and rubbed on top. The repair estimate of \$35 was for refinishing to repair scratches and scars.² The Claims Group determined that the pre-existing and repaired damage was "sufficiently different [to] lead us to believe the damage was not pre-existing." We are unable to reach the same conclusion, however, since the carrier received the leaf scratched; the repairs were to scratches; and we see little difference between rubbed (inventory) and scarred (repair estimate). See Continental Van Lines, Inc., 63 Comp. Gen. 479 (1984). Accordingly, it appears from the record that the repair estimate was for pre-existing damage, and not damages that occurred in transit.

American is entitled to a refund of \$35.

James F. Hinchman

for
James F. Hinchman
General Counsel

²The member's notice of loss and damage described the leaf as gouged and deeply scarred.