



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Sherwood Van Lines - Loss and Damage to Household Goods - Notice of Damage

File: B-227708

Date: January 29, 1988

DIGEST

Claim for damage to household goods not noted at time of delivery can be substantiated by subsequent timely notification to the carrier of additional damage. While the memorandum of understanding between the household goods moving industry and the military services prescribes a standardized method for reporting and processing claims, the failure of the installation claims office to send the carrier a specified form listing additional damage does not relieve the carrier of liability when the demand on the carrier and supporting documentation, which in substance fully notified the carrier of the damage, is furnished the carrier within the agreed upon 75 days of delivery.

DECISION

This decision concerns a household goods loss and damage case against Sherwood Van Lines (Sherwood) in the amount of \$321.99. Sherwood has denied liability for all damages except \$21. The Air Force requested setoff of the entire amount, and Sherwood seeks a refund of \$300.99. The liability for damages arises from the shipment of household goods belonging to Master Sergeant Allen Wesley, USAF, which were shipped under Government Bill of Lading DP-189,600, dated June 7, 1985. For the reasons stated hereafter, we deny Sherwood's claim for refund.

BACKGROUND

The record shows that Sherwood accepted the shipment of household goods on June 11, 1985, in the condition noted on the inventory prepared by its agent. The shipment moved from North Highlands, California, to Myrtle Beach Air Force Base, South Carolina, where it was delivered on October 4, 1985. Upon delivery, DD Form 1840, Joint Statement Of Loss Or Damage At Delivery, was filled out by the carrier's agent and Sergeant Wesley listing damages. Also, Sergeant Wesley noted the same damages on DD Form 619-1, under the section titled Consignee's Statement of Delivery and Loss or Damage. Subsequent to delivery, additional damage to the household goods was found and listed on the DD Form 1840R,

Notice of Loss or Damage (the reverse side of the DD Form 1840), and the completed form was provided to the Myrtle Beach Air Force Base claims office. On November 19, 1985, the 46th day after delivery, Sherwood was sent DD Form 1843, Demand on Carrier, and DD Form 1844, Schedule of Property and Claim Analysis Chart. DD Form 1844 itemized the loss and damage to the household goods in detail, including those items for which an exception was taken at delivery, as well as the additional items not noted at time of delivery. However, the Myrtle Beach claims office failed to include the completed DD Form 1840/1840R which contained the same information as that in the DD Form 1844. No inspection of the damage is indicated in the record.

DISCUSSION

The carrier admits liability for those items listed on DD Form 1840 which were excepted to at time of delivery, but contends that DD Forms 1843 and 1844 did not afford it adequate notice as to those items which were not excepted to at the time of delivery, as prescribed in the Military-Industry Memorandum of Understanding. Further, Sherwood contends that it was effectively denied an opportunity to inspect the household goods because DD Form 1844 did not constitute the same quality of notice as to those additional damaged items as would a DD Form 1840/1840R.

The issue in this case is whether a prima facie case of carrier liability has been established. It must be shown that the shipment was delivered to the carrier in good condition and that on arrival there was damage to the shipment. The amount of damages also must be shown. Missouri Pacific R.R. v. Elmore & Stahl, 377 U.S. 134, 138 (1964). See also Southeastern Freight Lines, 63 Comp. Gen. 243, 244 (1984). The record shows that the shipment was delivered to the carrier in good condition. The additional damage was discovered shortly after delivery and was listed by Sergeant Wesley on DD Form 1840/1840R. Although the claims office neglected to include the completed DD Form 1840/1840R with its formal claim, the information contained in this form was listed in greater detail on the DD Form 1844.

The notice requirement cited by Sherwood is found in the Military-Industry Memorandum of Understanding, which for domestic household goods shipments became effective on

October 1, 1985. In Section A of the memorandum it is stated that in cases of later discovered damage, written documentation on DD Form 1840R advising the carrier of the loss and damage shall be accepted by the carrier as overcoming the presumption of the correctness of the delivery receipt. While that section does not state that the furnishing of information on a Form 1840R is the only acceptable method of notifying the carrier, Sherwood points to Section F under Loss and Damage Rules, which reads in pertinent part:

"It is agreed that the claim will be limited only to the items indicated on the DD Forms 1840 and 1840R * * *."

The purpose of the memorandum is to establish the fact that loss or damage occurred while the household goods were in the possession of the carrier. To accomplish this goal, the memorandum prescribes standardized methods and time frames under which to process and settle claims. Under ordinary circumstances, these procedures should be relied upon in determining timely claims processing.^{1/} While the memorandum seeks to prescribe a standard reporting format for notifying the carrier of loss and damage discovered subsequent to delivery, we do not believe that the provisions of section F would preclude holding a carrier liable for damages in a case such as this.

Although the memorandum refers to a DD Form 1840R, which was filed with the Myrtle Beach claims office but was not sent to the carrier, Sherwood was sent DD Form 1843, Demand on Carrier and DD Form 1844, Schedule of Property, 46 days after the delivery. DD Form 1844 listed each item damaged, the nature and extent of the damage and the cost of repairs. It included the items excepted to at delivery as well as the damaged items discovered after delivery. Thus, DD Form 1844 certainly gave Sherwood sufficient information upon which a prompt and complete investigation could have been based. In fact, as noted previously, it contained greater detail than the DD Form 1840/1840R. Moreover, if, after receiving this notice of the damage the carrier felt the need for a DD Form 1840/1840R, a simple inquiry of the claims office

^{1/} The memorandum prescribes a 75-day period following delivery within which to notify the carrier of additional loss or damage.

would almost certainly have resulted in the carrier receiving it since Sergeant Wesley had completed it and filed it with that office within the prescribed time period. In sum, Sherwood received notice which in substance more than complied with the requirements of the Memorandum of Understanding, well within a reasonable time after delivery, and failed to make an inspection of the damage.

Accordingly, since a prima facie case of carrier liability has been established and has not been rebutted by the carrier, Sherwood's claim for a refund of \$300.99 is denied.

A handwritten signature in black ink, reading "Milton J. Jovan". The signature is written in a cursive style with a large initial "M".

Acting Comptroller General
of the United States