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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: American Van Services, Inc.

File: B-250492

Date: April 21, 1993

DIGEST

Even though an item of household goods that incurred damages in transit contained pre-existing damage, GAO will not reverse the agency's administrative determinations of transit damages and repair costs without competent evidence that the determinations are unreasonable.

DECISION

American Van Services, Inc., requests review of our Claims Group's settlement upholding the Air Force's set-off of $218.67 from money otherwise owed to American to recover transit damages to a service member's household goods.[1] We affirm the Claims Group's settlement.

American disputes its liability on several grounds. First, the carrier notes that the Air Force sent it two notices of damage, and complains that the agency never has explained why the notices differed somewhat in describing the damage to some items. The company also argues that the damaged items had extensive pre-existing damage (PED) as noted on the origin inventory, and that either some of the damages claimed were indistinguishable from the PED or repair costs were not properly calculated to account for PED. In this respect, American contends that the use of the words "touch up" in the repair estimate was not adequate to ensure that repair work did not correct PED as well as transit damages. Finally, the carrier complains that it has been held responsible for state sales tax the member erroneously overpaid on a repair.

We find no merit in American's arguments except regarding the sales tax.

Our Claims Group found that both damage notices were dispatched on November 6, 1989; American does not dispute that finding in its request for review. Both notices list

[1]This shipment moved under Personal Property Government Bill of Lading RP-206,142.

the same inventory numbers, and they only differ in detailing the damage to some of the items. The record is not clear why two different notices were sent, but November 6, 1989, was a timely dispatch date. Since American is prima facie liable for damage listed on a timely notice, the Air Force's failure to explain the two notices is irrelevant.

American's arguments with regard to the cause and value of the damages are not persuasive. As to cause, for example, the carrier argues that any transit damage to the piano (item 97) was indistinguishable from PED. But, the damage claimed was chipped or broken veneer on the lower left side, which is distinguishable from the PED noted by the carrier at origin.

The carrier recognizes the existence of at least some transit damage for a table leaf (item 185), a tea cart (item 60), a center wall unit[1] (item 96) and a buffet (item 93). Thus, the focus of the remainder of American's objections regarding damages is directed toward the amount assessed against it by the Air Force.

It is not significant to the propriety of the Air Force set-off that the repair estimate did not describe the specific locations and damages. Although the work required to fix each item ("touch up") was the only description in the estimate other than identification of the damaged item, damages were specifically described in the AF Form 180A that accompanied a copy of the repair estimate. American thus had the opportunity to compare the repair cost for each item to the transit damage claimed in the AF Form 180A (excluding PED) and then offer clear and convincing evidence to show that the agency's calculation of damage was unreasonable. See Ambassador Van Lines, Inc., B-249072, Oct. 30, 1992. American has not done so. Moreover, the fact that some PED may be repaired incidental to the repair of transit damage does not diminish American's liability since American has not demonstrated that the additional cost for doing so is ascertainable. See Interstate Van Lines, Inc., B-197911.2, Sept. 9, 1988.

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[1]This item was described in both damage notices as a bookcase, and in the repair estimate as a three-piece television stand. Since the record indicates that the item (however described) incurred some transit damage along with PED, we view this matter as a controversy over the amount set off. We note that the inventory lists three separate pieces that appear to comprise the wall unit; only the center one is in issue.

Finally, our review supports American's position that it is owed tax that the shipper overpaid on repairs. However, the amount owed is only $1.94, which the Air Force is not obliged to pay pursuant to a de minimis agreement with the industry.[3]

The Claims Group's settlement is affirmed.

for James F. Hinchman
General Counsel

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[3]Based on a Joint Military-Industry Agreement, a military service will not pursue a loss/damage claim against a carrier for $25 or less, and in return a carrier will not request reimbursement in the same circumstances. Adding the overpaid tax to amounts that the Air Force otherwise would owe to American on items not in issue in this review, the total is less than $25. (American is required to request reimbursement from the Air Force even when our decision is the basis of reimbursement.)