



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Tri-State Motor Transit Company
File: B-254620
Date: March 29, 1994

DIGEST

A carrier is not entitled to a diversion charge in addition to the charge for a stop-off for partial unloading of a shipment when the government agency requested the stop-off before the carrier's receipt of the shipment.

DECISION

Tri-State Motor Transit Company, a motor carrier, requests review of the General Services Administration's denial of its claim in the amount of \$75 for diverting the shipment in Government Bill of Lading (GBL) transaction C-8,234,569. We affirm GSA's settlement.

The shipment involved the movement of aircraft parts from a contractor's facility in Jupiter, Florida, to the National Aeronautics and Space Administration's (NASA) Ames Research Center at Moffett Field, California. The record indicates that NASA prepared the GBL on January 30, 1990, and that Tri-State picked up the shipment on February 1. As originally prepared and issued, the GBL did not indicate that NASA had requested a stop-off at Kirtland Air Force Base, New Mexico, to drop one piece in the shipment, but Tri-State's own work order, dated January 31, indicates that the stop-off had been requested. The Transportation Officer issued a GBL Correction Notice (SF 1200) after the February 6 delivery, on February 14.

Tri-State seeks a \$75 diversion charge in addition to a \$50 charge for the stop-off. The carrier contends that the entire shipment was diverted to add the stop-off; Tri-State argues that the point at which the government ordered it to stop the shipment (Kirtland) effectively became the delivery point, and that there was a new shipment from that point to the final destination (Moffett Field).

We first note that in denying Tri-State's claim initially, GSA incorrectly cited the Military Traffic Management Command's Freight Traffic Rules Publication (MFTRP) 1A as applicable to the transaction. However, MFTRP 1A applies to Department of Defense transactions, not to NASA ones; item

820 of Tri-State's ICC TSMT 100A (Rules Tariff) therefore governed any diversion here.¹ Under item 820, a diversion/reconsignment is a change in the name or address of the consignor or consignee, a change in destination, or any other instructions necessary to change the delivery.

We do not agree with Tri-State that NASA made a change that constituted a reconsignment or diversion under item 820 of Tri-State's Rules Tariff. Normally, a shipment is diverted or reconsigned en route or at a destination. See 1 Fed. Carr. Rep. (CCH) 196.03 (1988). Here, however, Tri-State knew by January 31, the day before it received the shipment, that NASA had requested the stop-off. We are not aware of any situation where diversion charges applied as a consequence of a shipper's or consignee's actions before the carrier's receipt of the shipment.

Tri-State offers no legal support for its suggestion that a stop-off to unload an item at an intermediate point necessarily constitutes a diversion of the entire shipment at the intermediate point. In contrast, in an analogous situation, where a personal property bill of lading contemplated storage-in-transit followed by a second delivery to the residence, delivery to storage was not a diversion because it involved no change from the original delivery instructions. See Trans Ocean Van Service v. United States, 426 F.2d 329, 340 (Ct. Cl. 1970). As in the cited case, both deliveries here were contemplated in the contract of carriage. Tri-State was legally compensated for the intermediate partial delivery by the applicable stop-off charge.

In its appeal of GSA's action, Tri-State has added a claim for tarpaulin service, on which GSA has not reported. Therefore, we affirm GSA's settlement on the diversion issue, but we remand the matter to the agency for consideration of the tarpaulin charge.



Robert P. Murphy



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¹GSA does not rely on MFTRP 1A in its report on Tri-State's appeal to our Office.