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

Decision

Matter of: Goulart Trucking, Inc. - Reconsideration.

File: B-251140.5

Date: May 17, 1994

DIGEST

Decision that a carrier was liable for the full amount of transit damage because there was no evidence that a Service Agreement, which would have limited the carrier's liability, had been extended to the date of the damage is modified. The government has supplemented the record on reconsideration to support the carrier's contention that the Service Agreement was extended and, therefore, liability is limited in accordance with the Agreement's terms.

DECISION

The Defense Finance and Accounting Service (DFAS) requests reconsideration of our decision in Goulart Trucking, Inc., B-251140.4, Sept. 28, 1993, in view of additional information it discovered after our decision. We modify the decision.

One of the main issues in our prior decision was the amount of Goulart's liability to the government for the transit damage it caused to a March 1990 shipment. The amount of Goulart's liability depended on whether a 1-year Service Agreement executed with Goulart in July 1988 was extended from July 1989 through the time of the shipment, March 1990. On its face, the 1988 Service Agreement expired on July 15, 1989, and the Government Bill of Lading for the March 1990 shipment contained no provision limiting carrier liability. If the Service Agreement had been extended and had been incorporated into the March 1990 contract of carriage, the released liability provision in the agreement appears to limit the carrier's liability for transit damages to \$19,345, an amount well below the actual value of the damages.

Our finding that Goulart was liable for the full amount of damage was predicated upon the Navy's report that it was unable to locate any documentary evidence that the 1988 Service Agreement with Goulart was extended from July 1989 or was incorporated into the March 1990 contract.

In its request for reconsideration, DFAA has provided copies of two official messages: one dated April 21, 1989, from the Naval Supply Command in San Diego to the Navy Material Transportation Office (NAVMTO) representative at the Military Traffic Management Command's Western Area headquarters requesting that Goulart's 1988 Service Agreement be extended to July 15, 1990; and a reply message from NAVMTO on June 9, 1989, indicating that Goulart had agreed to do so.

This additional information suggests that the Service Agreement indeed was extended. Accordingly, we find that Goulart's liability is limited to \$19,345. (Goulart's liability otherwise is not in issue.)



Robert P. Murphy
Acting General Counsel