

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES

WASHINGTON, D.C. 20548

15752 *Kramer*
[Claim for Reimbursement of Money Collected for Excess Costs
Incurred in Shipment of Household Goods]

FILE: B-197948

DATE: December 29, 1980

MATTER OF: Chief Warrant Officer William J.
Robertson, Jr., USA

DIGEST: Army member, pursuant to permanent change of station orders, shipped household goods and unaccompanied baggage in excess of his prescribed administrative weight allowance. Under paragraph M8007-2, 1 JTR, the member is liable for all costs attributable to shipping the excess weight. The fact that the member may have received erroneous advice concerning his transportation entitlements does not serve to relieve him of his liability since the Government is not bound by incorrect statements of its agents and employees.

Chief Warrant Officer William J. Robertson, Jr., United States Army, requests reconsideration of our Claims Division's denial of his claim for reimbursement of the money collected from him for excess costs incurred in the shipment of his household goods and unaccompanied baggage incident to a permanent change of station from Mannheim, Germany, to Fort Bragg, North Carolina. For the following reasons the disallowance of Mr. Robertson's claim is sustained.

On June 20, 1976, Mr. Robertson's unit, located in Mannheim, Germany, was deactivated. As a result, he received permanent change of station orders dated July 22, 1976, directing him to move to Fort Bragg, North Carolina. These orders authorized Mr. Robertson to ship his household goods and baggage at Government expense to his new duty station.

Upon presenting his household effects for shipment Mr. Robertson was informed by the transportation movement officer (TMO) that he had exceeded his weight allowances and that his goods would not be sent until he received approval to ship excess goods. Mr. Robertson was told to submit an "Exception to Policy" letter to the transportation officer. In this letter Mr. Robertson

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requested an additional weight allowance of 2,200 pounds for his household goods. Based upon Mr. Robertson's request the transportation officer filled out a first indorsement form recommending that an exception to the administrative weight allowance be granted to Mr. Robertson. However, while that form showed his estimated excess weight to be 1,910 pounds it was recommended that Mr. Robertson only be granted an exception in the amount of 224 pounds based on the weight of certain listed items. Mr. Robertson's orders were subsequently amended to reflect the transportation officer's recommendation. Mr. Robertson was given a copy of this recommendation. He presented his copy to the TMO who then allowed Mr. Robertson's goods to be shipped. When the goods arrived at Fort Bragg Mr. Robertson was informed that he had exceeded his weight allowance by 1,264 pounds and therefore was indebted to the Army for the additional costs incurred in shipping his goods.

Mr. Robertson contends that he should not be responsible for these costs on the grounds that when he received his copy of the transportation officer's recommendation he was under the impression that all the additional weight requested was approved and not just 224 pounds. Further, he argues that this understanding was reinforced when the TMO, after being presented with a copy of this recommendation, shipped his goods immediately without any questions.

Under sections 406(b) and (c) of title 37, United States Code (1976), a member who receives a permanent change of station order is entitled to transport his personal baggage and household effects at Government expense to his new duty station within the weight allowances prescribed by the Secretaries concerned. Implementing regulations are contained in Volume 1, Joint Travel Regulations (1 JTR), chapter 8, and Army Regulation (AR) 55-71.

At the time Mr. Robertson shipped his household goods he was subject to an administrative weight

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restriction. See AR 55-71, para. 5-4 (change 4, May 14, 1976), and 1 JTR para. M8003-2 (change 278, April 1, 1976). Under this restriction his maximum authorized weight allowance, prior to being granted an exception, was 2,500 pounds. See 1 JTR para. M8003-2, supra.

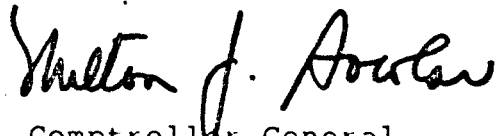
The regulations also provided that the Government's maximum transportation obligation was the cost of a through household goods movement of a member's prescribed weight allowance. 1 JTR para. M8007-2 (change 279, May 1, 1976). Moreover, under this regulation the member was to bear all transportation costs for weights in excess of the member's maximum prescribed weight allowance. See also AR 55-71, para. 5-3 (change 4, May 14, 1976).

Since Mr. Robertson's household goods exceeded his total administrative weight allowance--which included the amount he was entitled to under the regulations plus the 224-pound exception he was granted--he is liable under the regulations for the excess weight charges. Furthermore, since these regulations were issued by the Secretaries of the uniformed services under the authority of 37 U.S.C. 406(b) and (c) they are considered to have the force and effect of law and may not be waived. Moreover, the fact that the TMO shipped Mr. Robertson's goods immediately after being presented with a copy of the transportation officer's recommendation is not determinative since under AR 55-71, para. 5-3, supra, TMO's are not to refuse movement to destination of overweight shipments. Also, it would appear that in view of the recommendation that he only be authorized an additional 224 pounds Mr. Robertson should have questioned the TMO as to his liability for the additional weight being shipped. However, in any event while it is unfortunate that Mr. Robertson may not have been fully advised by Army officials concerning his transportation entitlements it is a well-established rule of law that the Government cannot be bound by

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errors purportedly made by its agents and employees. See Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Dunphy v. United States, 208 Ct. Cl. 986 (1975), and cases cited at 989; and B-180184, August 21, 1974.

Accordingly, we may not authorize payment of Mr. Robertson's claim.

A handwritten signature in cursive script, reading "Milton J. Fowler".

For the Comptroller General
of the United States