



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

# Decision

**Matter of:** ABF Freight System, Inc.  
**File:** B-203529.2  
**Date:** July 18, 1990

## DIGEST

Carrier's allegation that a helicopter blade lost in transit to destination in fact had been delivered but later was returned by the agency to origin does not rebut the government's prima facie case against the carrier for loss of the blade where the agency has been unable to verify delivery or return; the carrier has furnished no documentation to support the allegation or otherwise establish delivery; and the record as developed in response to the allegation contains no evidence to suggest receipt at destination or return.

## DECISION

ABF Freight System, Inc., requests review of our Claims Group's Settlement Certificate dated May 2, 1989, disallowing ABF reimbursement of \$22,445.12 offset by the Department of the Army from ABF's revenues to satisfy a claim for the loss of a helicopter blade. For the following reasons, we sustain our Claims Group's settlement.

Army records show that the helicopter blade was not delivered after being tendered to ABF at Fort Bragg, North Carolina on April 15, 1983, for delivery to Red River Army Depot, Texarkana, Texas. ABF contends that, even though there may be no documentation establishing delivery, the carrier in fact delivered the blade to Red River, and the **Army later** returned the blade to Fort Bragg. ABF alleges that it received oral information from someone at Fort Bragg that the blade was returned there on May 17, 1983, on document number 30957004, and acknowledged by a Jerome Goode.

ABF further states that the delivery practices at Red River make it difficult for a carrier to prove that the item the government claims was lost actually was delivered. According to ABF, a carrier is not permitted to deliver freight and secure a delivery receipt at the time of delivery. Instead, the driver must leave the trailer at the depot for depot personnel to unload later and mark the carrier's bills for pickup by a subsequent driver. ABF complains that this lack

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of a jointly conducted count at the time of unloading is unfair.

The Army reports that the blade was being shipped to be repaired and, therefore, would not have been diverted or returned from Red River. The Army further states that Fort Bragg officials have rechecked their inventory for the document number provided by ABF with respect to the alleged return of the blade, but that the search has proven negative.

A prima facie case of carrier liability for loss in transit is established when the shipper shows that he tendered the property to the carrier, that the property was not delivered, and that a loss of a specific value resulted. Once these are established, the burden of presenting evidence in rebuttal shifts to the carrier. See Missouri Pacific Railroad Company v. Elmore & Stahl, 377 U.S. 134 (1965); Paul Arpin Van Lines, Inc., B-213784, May 22, 1984.

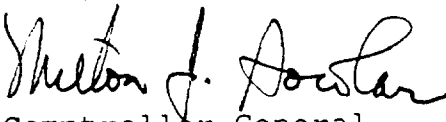
ABF has not met its burden of proof. The fact is that the documented record shows that the helicopter blade was tendered to ABF at Fort Bragg on April 15, 1983, but was not delivered to Red River. Also, the Army reports that it has not been able to verify the document control number provided by ABF, and further maintains that the return of the unrepaired blade would not have been a proper procedure. Against this record, the carrier merely alleges it completed delivery to Red River, and says it was told by someone at Fort Bragg that the blade was returned there. ABF's speculation as to what occurred neither establishes that the administrative records concerning the blade are so suspect that they should be disregarded, or that the blade otherwise must have been delivered.

ABF argues that a carrier is at a disadvantage with respect to proving delivery of a contested item to Red River, in light of the delivery procedures at the installation that ABF describes.

We are not aware of any requirement entitling carriers to participate in a joint count with destination installation officials. Further, ABF has failed to furnish any documentation at all to prove its case. For example, despite our request ABF has provided nothing to show the actual contents of the trailer when it was left at Red River, like the manifest ABF says normally would have been prepared for the last trailer that should have contained the blade (the trailer going from ABF's Texarkana terminal to Red River). We have also asked the General Services Administration, which retains paid transportation bills, and officials at the Army Finance and Accounting Center, to review their records; those

reviews have not yielded any indication of delivery. Finally, we have contacted personnel at Fort Bragg on the issue of return. Those officials say they recall no individual named Jerome Goode who might have received the blade when it allegedly was returned.

In sum, consistent with the general rule governing carrier liability the Army has made a prima facie case, which ABF has failed to rebut with any substantial evidence. The Claims Group settlement is sustained.

for   
Comptroller General  
of the United States