

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-210659

DATE: September 5, 1984

MATTER OF: Lieutenant Colonel John W. Larkin 3d, USAF

DIGEST:

The Secretary of the Air Force created a 10 percent packing allowance in Air Force Regulation 75-25 for household goods shipped by the direct procurement method even though subparagraph M8002-3a, 1 JTR prescribes a 20 percent packing allowance for household goods shipped by that method. Since the 20 percent packing allowance is applicable when the weight used to determine the actual weight of the household goods is the gross weight of the shipment less the weight of the empty shipping boxes or transporters, that allowance is not for application when the weight used is the gross weight of the shipment less the weight of the shipping boxes or transporters and the weight of materials necessary for preparing the goods for shipment. In the latter case the 10 percent allowance prescribed by the Air Force is appropriate.

The question presented in this case is whether the Secretary of the Air Force had authority to prescribe a 10 percent packing allowance in Air Force Regulation (AFR) 75-25, July 9, 1976, for a direct procurement method of shipment of household goods rather than applying the 20 percent packing allowance for such shipments of household goods shown in paragraph M8002-3a, Volume 1, Joint Travel Regulations (JTR). Lieutenant Colonel John W. Larkin, 3d, USAF, claims reimbursement of charges he paid incident to the nontemporary storage of an excess weight of household goods which would not have been considered excess weight had the 20 percent allowance been used. The Secretaries of the Services are authorized to supplement the JTR by administrative regulations but they are bound by the specific provisions of those regulations. In the circumstances presented we find that the Secretary of the Air Force did not exceed his authority in establishing the 10 percent allowance. Accordingly, Colonel Larkin's claim is denied.

The Joint Travel Regulations establish maximum weight allowances for household goods which may be shipped and stored by members of the services incident to a permanent change of station. Colonel Larkin as an officer in grade O5 was entitled to an allowance of 13,000 pounds. 1 JTR para. M8003. This weight allowance is applied to the actual weight of unpacked and uncrated household goods and that actual weight without packing materials is to be used in determining whether the member has exceeded his weight allowance. 1 JTR para. M8002-1. However, for certain types of shipments obtaining the actual weight is not practicable and other methods of determining the weight must be used. In this regard, para. M8002-3a, 1 JTR, provides:

"a. Standard Overseas Shipping Boxes.

When household goods are shipped by the Direct Procurement Method (DPM) in standard overseas shipping boxes (e.g., type II containers or Government-owned CONEX transporters), and the actual weight of the unpacked and uncrated household goods is not known, but the gross weight and the weight of the shipping boxes or CONEX transporters is known, an allowance will be made for the weight of interior packing and bracing materials used in the shipment. The charge against the member's prescribed weight allowance will be determined by reducing the difference between the gross weight of the container when loaded and the stenciled weight of the empty container by 20%. * * *

However, Air Force Regulation 75-25, Table 5-1, prescribes a 10 percent packing allowance for shipments of household effects moving under the direct procurement method where the "contractors recorded net weight is known."

The actual weight of Colonel Larkin's household goods was not known, and the Air Force applied the rule in Regulation 75-25 reducing the "net weight" of the household effects shipped and stored by 10 percent to calculate the excess weight of the household goods.

The Air Force applied the 10 percent packing allowance because it concluded that the weight of the household goods as recorded by the packing contractor was not based upon the

gross weight of the shipment less the weight of the empty shipping boxes or transporters, but was based on the gross weight of the shipment less the weight of the shipping boxes or transporters and the weight of materials required to prepare the goods for shipment. This conclusion was predicated on a provision in Department of Defense Regulation 4500.34-R which prescribes the procedures used by the Department of Defense in shipping household goods. Regulations applicable to direct procurement method shipments provide that:

"The tare weight will be determined by weighing the containers and packing material required to prepare the shipment. The net weight will be determined by weighing the container after it is completely packed and subtracting the tare weight from the gross weight." Para. 7009, Regulation 4500.34-R.

These procedures obviously do not provide for the weight of the empty container but for the weight of the empty container plus the packing material necessary to prepare the household goods for shipment. They include the weight of some packing materials in the tare weight whereas the 20 percent allowance in the JTR assumes that no packing materials will be included in the tare weight. In order to obtain an accurate weight for determining whether an individual had exceeded the maximum entitlement the Air Force felt it was necessary to supplement the JTR, and the Secretary established a 10 percent packing allowance. That allowance applied to the direct procurement method "contractors recorded net weight." The allowance of 10 percent was justified since the net weight using this method apparently includes some packing materials--the boxes and cartons in which the goods are packed--but not interior padding and bracing material used to secure the goods inside the shipping boxes or transporters. Since the JTR provision which authorizes a 20 percent packing allowance applies to direct procurement method shipments when only the weight of the empty shipping box or transporter is subtracted from the gross weight, that provision does not govern Colonel Larkin's shipment. In his case the weight which was to be subtracted from the gross weight included also interior padding and bracing materials making the use of the 10 percent allowance as prescribed by the Air Force appropriate.

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Colonel Larkin argues that the 20 percent allowance should be applied to members of the Air Force whose goods are shipped by the direct procurement method since the 20 percent allowance is applied to similar shipments for members of the other services. However, the Secretaries of the Services are required to prescribe weight allowances for shipment of household goods. This has been done in para. M8003, 1 JTR. While it is recognized that the exact weight of a member's household effects cannot always be determined, the regulations must be applied so that the calculation of the weight of household goods results in an accurate estimate of the actual weight. A procedure which would, in effect, increase the weight of household goods shipped by applying an excessive packing allowance would authorize exceeding the maximum weight allowances. As indicated above in Colonel Larkin's case the packing allowance authorized by the Air Force appears to result in a more accurate determination of the weight of the unpacked household goods. Therefore we do not find that the application of that allowance is unfair. The other services should apply a similar allowance to direct procurement method shipments when padding and bracing materials are included as part of the weight which is subtracted from the gross weight of the shipment. We are bringing this matter to the attention of the Secretary of Defense with a recommendation that he take action to seek similar packing allowances applicable to the other services.

For the reasons stated Colonel Larkin is not entitled to reimbursement for the charges he has paid incident to the nontemporary storage of the excess weight of his household effects as determined by the Air Force.

for *Shelton J. Fowles*
 Comptroller General
 of the United States

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