

Hertzman



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Technical Sergeant Crafton E. Barnett, USAF -
Excess Weight - Household Goods
File: B-222382
Date: July 10, 1987

DIGEST

1. The question of whether and to what extent authorized weights have been exceeded in the shipment of household goods by members of the uniformed services is a matter primarily for administrative determination. Ordinarily, the administrative determination will not be questioned in the absence of evidence showing it to be clearly in error.
2. Evidence of the weight of household goods when placed in nontemporary storage is not determinative of the weight of these goods when taken out of storage so as to relieve the member of his liability for excess weight based on the higher line-haul shipment. The heavier line-haul weight may be due to several factors including the use of different scales, the use of storage materials which are not removed before shipping, and moisture absorption while in storage.
3. The longstanding practice of the government to accept the lesser weight when the same household goods are reweighed does not apply separately to a shipment in storage and to a line-haul shipment so as to relieve the member of his liability for excess weight. The rule applies only to the line-haul shipment, which was not reweighed. 49 C.F.R. § 1056.7 (1985).

DECISION

The Director, Department of the Air Force, Joint Personal Property Shipping Office (JPPSO) San Antonio, Texas, requests reconsideration of our Claims Group's settlement of November 25, 1985. The settlement partially relieved the indebtedness of Air Force Technical Sergeant Crafton E. Barnett for excess costs of \$319.96, in connection with the transportation of his household goods to his home of record

039437

upon his retirement. The question presented is whether the lower weight recorded for the household goods in storage or the higher weight recorded for the line-haul transportation of the household goods to the member's home of record is the applicable weight for the determination of his indebtedness. For reasons that follow, we concluded that Sergeant Barnett is liable for the higher weight.

BACKGROUND

In June 1978, Sergeant Barnett made three separate shipments of household goods and personal effects from Guam to his new permanent duty station, Shaw Air Force Base, South Carolina. The shipments were rerouted to Greer, South Carolina, since the member had retired, and Greer was his home of record. In addition to the three overseas shipments, Sergeant Barnett had one lot of household goods in nontemporary storage in Kissimmee, Florida. The household goods in storage weighed 3,340 pounds, and they were billed and paid for by the government on this basis. However, when the household goods were shipped from Kissimmee to Greer, they were weighed again. Thus, the government was billed for the line-haul shipment on the basis of the new weight of 4,570 pounds, and freight charges were paid for on that basis. Both the storage and line-haul shipment weights are supported by valid weight certificates.

The combined weight of Sergeant Barnett's household goods exceeded his weight allowance by 1,768 pounds, since members in the grade of Sergeant Barnett were authorized to ship 8,000 pounds of household goods in connection with retirement to home of record.^{1/} This resulted in a total indebtedness of \$319.96, of which a portion (\$226.62) has been collected from the member's retired pay.

Sergeant Barnett protested his indebtedness because of the discrepancy of 1,230 pounds between the weight of the household goods in storage and its later delivered weight. Our Claims Group agreed with the member and accepted the lower stored weight mainly on the basis that it is the government's longstanding practice to accept the lesser weight when the same household goods are reweighed.

^{1/} See 1 Joint Travel Regulation, para. M8003 (Change 301, March 1, 1978).

The Director, JPPSO, requests a reconsideration of our Claims Group's settlement on the basis that it conflicts with previous decisions of this Office, that it would sponsor inconsistent application of the rules, and that it would discriminate against those who previously paid their debts according to these precedents.

OPINION

Section 406 of title 37, United States Code, provides for the transportation of household effects of members of the uniformed services to and from such places and within such weight allowances as may be prescribed by the Secretary concerned. Implementing regulations are contained in Chapter 8 of Volume 1 of the Joint Travel Regulations. Under the law and regulations, the question of whether and to what extent authorized weights have been exceeded in the shipment of household effects is a matter primarily for administrative determination. We ordinarily do not question an administrative determination in that regard in the absence of evidence showing it to be clearly in error. Major General William C. Burrows, USAF, B-198264, May 6, 1980.

In this case, there are certified weight certificates for both the household goods in storage and for the same goods when they were shipped, and the government was billed for and paid charges on that basis. The Air Force has made an administrative determination that the line-haul weight was correct, in spite of the discrepancy between the stored and delivered weight. In the absence of any additional evidence that an error did occur, we are bound by the Air Force determination. Air Force regulations provide for a reweigh in this type of situation. See paragraph 10003d, Personal Property Traffic Management Regulation DOD 4500.34-R. However, the regulation is procedural in nature, and the failure to fully follow procedural or instructional regulations standing alone is not sufficient to relieve the member of the charges for excess weight. Major Arthur D. Eiff, USAF, B-207950, February 8, 1983.

The Director, JPPSO, is correct when he states that previous decisions of this Office conflict with our Claims Group's determination. In addition to the decision cited by the Director, JPPSO, B-156988, August 2, 1965, reconsideration denied, B-156988, April 10, 1967, this Office has had other occasions to decide cases in which the weight of the goods when placed in storage differed from the weight of the goods when taken out of storage. In the recent case of Lieutenant Colonel Robert P. Moore, USAF, B-220877, June 25, 1986, we

held that evidence of the weight of household effects when placed in nontemporary storage is not determinative of the member's liability because a higher weight when the goods are taken out of storage may be due to several factors, including the use of different scales, the use of storage materials which are not removed before shipping, and moisture absorption while in storage. See also B-153673, June 8, 1964.

We realize that 1,230 pounds is a rather large weight discrepancy; however, the probability that there was an error in the weight certificate for the goods when delivered to storage is equal to the probability that an error occurred in the weight of the goods when shipped to the home of record. Furthermore, there is no additional supporting evidence to allow us to reach a contrary result.

We also agree with the Director, JPPSO, that, in the context of this case, the longstanding practice of the government to accept the lesser weight when the same household goods are reweighed does not apply. This principle is more than a practice since it is usually published in the carrier's tariff or tender and is provided for by regulation. See 49 C.F.R. § 1056.7(c) (1985). See also Charles L. Eppright, B-210713, March 28, 1984. However, this rule applies to each individual line-haul shipment. See 49 C.F.R. § 1056.7 (1985). Thus, we agree with the Director, JPPSO, that this principle would not apply to household goods placed in storage some 4 years earlier. It only applies to the shipment out of storage, and since that shipment was not later reweighed, the certified weight certificate of 4,570 pounds is the correct measure of the member's liability.

Accordingly, there is no basis to conclude that the Air Force's determination to use the line-haul weight of 4,570 pounds was incorrect. Our Claims Group's settlement of November 25, 1985, is overruled, and the member is liable for the uncollected portion of his debt of \$93.34.

Milton J. Foster
for Comptroller General
of the United States