



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Emerald City International Van Lines, Inc. -
International Household Goods Shipments - Port
Certificates Versus GBL Statements as to Port Used
File: B-226702, B-226724, B-226724.2

Date: November 18, 1987

DIGEST

The General Services Administration deducted overcharges from a household goods forwarder which collected charges on the premise that a containerized International Through Government Bill of Lading shipment was routed through Rhein-Main Air Force Base, the normal port designated for use in Germany by the Military Basic Tender. GSA's action was based on GBL notations indicating that the shipment was routed through Ramstein Air Force Base. Held: it was unnecessary for GSA to substantiate its factual determination with a port certificate issued by Ramstein's port officer since the tender provision requiring such certificates applies only where the carriers seek rate adjustments; therefore, GSA's action is sustained.

DECISION

Emerald City International Van Lines, Inc. (Emerald) asks for review of transportation audit action taken by the General Services Administration (GSA) relating to several international shipments of household goods made by various components of the Department of Defense. Emerald filed claims with GSA contending that the agency's audit basis, which resulted in the deduction of overcharges, was invalid because GSA failed to substantiate with a port certificate issued by the terminal officer that a specified military air terminal was used. We sustain GSA's disallowance of Emerald's claims.

BACKGROUND

Circumstances relating to the movement of one containerized shipment of household goods from Germany to Virginia illustrate the controversy. The household goods, which belonged to Master Sergeant Richard E. Grist, were moved on Government Bill of Lading (GBL) NP-189106, dated May 9, 1985. Emerald's claim for \$267.36 was disallowed by GSA on

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January 30, 1987.1/ Emerald protested the action on the grounds that the audit determination was made without the support of a port certificate substantiating the fact that the shipment was routed through the military air terminal at Ramstein Air Force Base (AFB), rather than Rhein-Main AFB, as, according to Emerald, is required by the applicable rate tender. GSA disagrees that such a certificate was required by the tender.

Military Basic Tender No. I-J contained the rules, regulations, rates and charges applicable to shipments of household goods transported in International Through Government Bill of Lading Service between the continental United States and overseas areas when Emerald contracted with the Department of the Army to move Sergeant Grist's household goods from Katzenbach, Germany, to Langley AFB, Virginia. The tender designated a specific aerial port for use in servicing shipments from each country. The port designated for Germany was Rhein-Main AFB (code "FRF"). The tender, however, provided for routings through other than the designated military air terminal, and under Item 115 of the tender, whenever an alternate routing resulted in different land mileage, the carrier or the Government was entitled to an adjustment depending on whether the land mileage from origin to the alternate terminal used was farther or closer than the mileage to the terminal designated by the tender.

Emerald collected charges on the basis that Sergeant Grist's shipment was routed through the designated terminal at Rhein-Main; however, based on GBL NP-189106, which indicated that the shipping officer routed the shipment through the terminal at Ramstein AFB (code "RMS") rather than Rhein-Main, GSA determined that Emerald collected overcharges of \$267.36, since the distance from origin to Ramstein was 59 miles shorter than the distance to the designated terminal at Rhein-Main. In the absence of the carrier's voluntary refund, GSA directed deduction of the amount from monies otherwise due Emerald.

1/ Other shipments covered by this decision include household goods belonging to Jerry Kirby, GBL NP-816979, October 29, 1985 (B-226702); Debra A. Islenes, GBL NP-816694, October 15, 1985 (B-226724); James P. Abramson, GBL NP-045510, November 26, 1984 (B-226724.2); and Richard Swengel, GBL NP-045959, December 20, 1984 (B-226724.2).

Emerald's request for review requires interpretation of paragraph 3 of tender Item 115. GSA did not support its factual premise--that the shipment was routed through Ramstein AFB--with a port certificate from Ramstein's terminal officer, though Emerald says it was required by Item 115 as a prerequisite to the Government's entitlement to a mileage adjustment. GSA contends that the shipment was routed through Ramstein AFB as indicated in blocks 22 and 25 of the GBL. Block 22 contains the notation "RMS - DOV," which means Ramstein (and Dover AFB, Delaware). Block 25, among other remarks, states:

"FOR FINANCE: REDUCE CARRIER'S BILLING IAW
MRT/MBT ITEM 115. SHIPMENT ENTERED APOE:RMS VICE
FRF DIFFERENTIAL - 59 MILES. 'IMPORTED BY AIR.'"

Emerald contends that this evidence of routing does not suffice because it does not comply with the provisions of paragraph 3, Item 115, which state:

"To substantiate the ports utilized, Terminal Officers will provide the carrier a certificate showing the ocean/aerial port used, indicating where the shipment was received from or returned to the custody of the ITGBL carrier. These certificates must accompany the original GBL and other documentation to support billing."

Emerald indicates that without the certificate it views the statements on the GBL to be "prima facie" erroneous. Emerald does not indicate, however, that based on any actual knowledge or other evidence it has determined that the statements on the GBL are erroneous as to the routing.

OPINION


The law requires claimants to carry the burden of proving the correctness of their freight charges, even after overcharges are administratively determined by GSA. Yellow Freight System, Inc., B-223311, August 3, 1987. We believe the language of Item 115, paragraph 3, preserves the integrity of that principle.

Item 115 provides for the terminal officer to provide the carrier with a certificate to support its billing. Clearly, the requirement is to substantiate the fact of which port was used for carriers seeking adjustments. It says "these certificates must accompany the original GBL and other documentation to support billing." Clearly, in light of the

tender's language carriers are required to substantiate, with a certificate, the use of a specific port.^{2/} There was no apparent contemplation that the Government would be required to obtain certificates in support of its determination of the correct charges where there is a reasonable basis for its factual determination.

Here, the shipping agency indicated on the GBL that Sergeant Grist's shipment was routed through Ramstein AFB, instead of Rhine-Main AFB, and, in the absence of compelling evidence to the contrary, we accept the statements of administrative agencies concerning the existence of material facts. See R & E Hauling, Inc., B-225087, September 25, 1987. Emerald presents nothing that would overcome the statements on the GBL that had been made by the Army.

Accordingly, it was proper for GSA to base its audit determination on the premise that Sergeant Grist's household goods shipment was routed through Ramstein AFB, rather than Rhine-Main AFB; therefore, GSA's audit action is sustained.

for 
Comptroller General
of the United States

^{2/} In a letter of September 10, 1987, to our Office the Staff Judge Advocate, Headquarters, Military Traffic Management Command, advised that "the purpose of the certificate was to provide corroboration to a carrier's claim for increased charges. The certificate was never considered necessary in those cases under Item 115 where the Government expected a downward adjustment in the charges."