



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Staff Sergeant Mitchel G. Brannon, USAF - Overseas
Shipment of Household Goods - Lost Shipment

File: B-229189

Date: December 9, 1988

DIGEST

Where a service member's household goods are lost at sea during government-procured transportation to Iceland incident to a permanent change of station, the transportation of replacement items, within the member's authorized weight allowance applicable when the travel orders became effective, may be made at government expense, even though the items were acquired after the effective date of orders. Our holding in 50 Comp. Gen. 556 (1971) will no longer be followed. The Joint Federal Travel Regulations may be amended to authorize the transportation of replacement items under such circumstances.

DECISION

We conclude that the expense of transporting a replacement shipment of household goods for a service member may be paid by the government, and the Joint Federal Travel Regulations may be amended to specifically authorize payment for transporting similar shipments, within prescribed limitations.

BACKGROUND

In November 1985, household goods belonging to Staff Sergeant Brannon, USAF, were lost at sea while in transit from the United States to Iceland incident to a permanent change-of-station move. He filed a claim with the Air Force for \$40,138.32, which included \$5,040 to reimburse him for the cost of shipping replacement household goods from the United States, a measure that was necessary since replacement items could not be purchased in Iceland.

Settlement of the claim is limited by law to \$25,000. See 31 U.S.C. § 3721 (1982). Therefore, Sergeant Brannon will be required to absorb the shipping expenses of transporting replacement household goods, unless 37 U.S.C. § 406(b)(1)(A)

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(Supp. IV 1986) authorizes the transportation of the shipment at government expense.

In this context, the Chairman of the Per Diem, Travel and Transportation Allowance Committee asks the following two questions:

"a. May a shipment of replacement items of household goods be made at Government expense [under 37 U.S.C. § 406(b)(1)(A)] in SSGt Brannon's case?

"b. May the Joint Federal Travel Regulations be amended to authorize a shipment of replacement items of household goods when through no fault of the member concerned, items of household goods have been lost or damaged prior to consummation of the original shipment in cases where the loss, including the cost of shipping replacement items, will exceed the statutory maximum claim liability of \$25,000?"

OPINION

Section 406(b)(1)(A) of title 37 provides in relevant part:

". . . in connection with a change of temporary or permanent station, a member is entitled to transportation . . . of baggage and household effects, or reimbursement therefor, within such weight allowances prescribed by the Secretaries concerned. . . ."

Military officials point out that our decision in 50 Comp. Gen. 556 (1971) prohibits shipment of replacement items under 37 U.S.C. § 406(b)(1)(A). In that case, all of the household goods of military members on a permanent change of station were destroyed in a warehouse fire in Europe before final delivery could be performed. We held that there was no statutory authority for an additional shipment of replacement household goods. The rule prohibiting the shipment of after-acquired property at government expense was stated as follows:

"Under the provisions of 37 U.S.C. 406(b), the right of members of the uniformed services to shipment of household effects at Government expense incident to change of station accrues to such members upon the issuance of orders and becomes definite on the effective date of such orders. Therefore, entitlement to shipment

generally relates only to those effects possessed by a member at that time. 43 Comp. Gen. 514 (1964) and decisions therein cited."

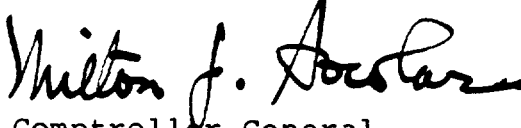
We agree with the military officials that our decision in 50 Comp. Gen. 556 reflects an unduly restrictive interpretation of 37 U.S.C. § 406(b) and may also be inconsistent with exceptions we have made to the so-called after-acquired property rule.

In 27 Comp. Gen. 171 (1947), we authorized the amendment of regulations to pay for the transportation overseas of household goods acquired after a permanent change of station occurred. Due to a critical housing shortage in the United States at the time, many members had been living in furnished quarters. Where they received overseas assignments, it was necessary that they purchase household goods between the date that orders were issued and the date they became effective. In some cases, the members were even unable to purchase household goods until after the effective date of orders. See also 43 Comp. Gen. 514 (1964), allowing the transportation of replacements for broken and worn out articles in the member's possession on the effective date of orders. These long-established exceptions are reflected in the definition of "Household Goods" in appendix A, note 4 of the Joint Federal Travel Regulations.

The statute provides broad authorization for the transportation of household goods in connection with a change of temporary or permanent stations. We believe the statutory entitlement contemplates the delivery of the member's goods in usable condition. Accordingly, we hold that where a member's original shipment of household goods is destroyed or lost during transportation incident to a change of temporary or permanent stations, a replacement shipment of household goods, within the member's prescribed weight allowance, may be made at government expense as though the original shipment was improperly shipped or unavoidably separated from the member. See Joint Travel Regulations, vol. 1, para. M8012 (Change No. 388, June 1, 1985). Our holding in 50 Comp. Gen. 556 will no longer be followed. Therefore, a shipment of replacement items of household goods may be made at government expense on behalf of Sergeant Brannon.

The second question is whether the Joint Federal Travel Regulations may be amended to permit replacement shipments under the same circumstances where the loss will exceed the statutory maximum claim liability of \$25,000 under 31 U.S.C. § 3721(b).

Our holding in 50 Comp. Gen. 556 was partly based on the understanding that members could be compensated for the cost of replacement shipments under what is now 37 U.S.C. § 3721. We did not contemplate a situation where the total loss, including replacement shipment costs, would exceed the government's maximum claim liability. In any event, consistent with our decision to overrule 50 Comp. Gen. 556, we have no objection to the proposed amendment to the Joint Federal Travel Regulations. We see no reason to tie the authority to ship replacement items under 37 U.S.C. § 406(b)(1)(A) to the monetary limit on claims settlements under 31 U.S.C. § 3721.

for 
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