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

358

Decision

AR

Matter of: National Forwarding Company, Inc.

File: B-238982

Date: June 22, 1990

DIGEST

1. Under Army claims regulations, both in compensating a member for an item lost in connection with a change of station move, and in computing the carrier's liability for the loss, the agency should not charge depreciation against the item for a storage period.

2. Carrier that transported a service member's goods in connection with a change of station is liable for a bicycle the member reported as missing in a post-delivery notice, even though the form the member signed at delivery had a check mark next to the item's listing that presumably indicated it was delivered. There is no evidence that the member (as opposed to the driver, for example) was the one who annotated the listing, and the military/industry loss or damage agreement specifies that proper post-delivery notice to the carrier overcomes the presumption of the delivery receipt's correctness.

DECISION

The U.S. Army Claims Service appeals a December 4, 1989, settlement by our Claims Group disallowing an Army setoff against funds due National Forwarding Company, Inc., in connection with the loss of an Army member's household goods during shipment. The Claims Group held that (1) in setting off $15 for a lost post-hole digger and $53 for a broken fishing rod the Army improperly failed to depreciate the items by a total of $7.25, and (2) the Army should not have set off $349.00 for a Schwinn bicycle the member reported missing sometime after delivery.

We reverse the Claims Group's decision.

The member's shipment had been in storage from August 1986 until the carrier picked it up on December 31, 1987, for delivery 1 month later. The Army did not depreciate the lost post-hole digger and fishing rod in its set-off against the carrier based on paragraph 11-13(d)(1) of Army Regulation 27-20, which provides that in compensating a

member for loss or damage, depreciation normally is not charged against items for time in storage.

The Claims Group agreed with the carrier that the cited regulation applies to the Army/member relationship, and has no effect on the carrier's liability. The Army, in its appeal, disputes that view.

The Claims Group is correct to the extent that paragraph 11-13 generally deals with the Army's responsibility to reimburse the member for loss or damage. The precise provision in issue, however, addresses depreciation for purposes of determining actual value, not just for compensation purposes:

> "d. In adjusting a base figure to determine actual value, standard yearly rates of depreciation have been established for the types and categories of items that have generally recognized periods of useful life . . . The following rules are to be observed in computing the depreciation applicable to any item:
>
> (1) Normally no depreciation is to be charged against goods during periods of storage. . . ."

Paragraph 11-27, which addresses a carrier's liability, provides that, except in circumstances not involved here, such liability generally is limited to the "depreciated value of an item" if the carrier bases a settlement offer on the Joint Military/Industry Depreciation Guide, and if that amount is less than the amount paid by the Army. In this respect, the Depreciation Guide is an adjunct to the Military/Industry Memorandum of Understanding that sets out loss and damage rules for the movement of service members' household goods; the Guide prescribes rates of depreciation that generally apply for purposes of settling loss or damage claims.

We recognize that paragraph 11-27 does not include the same provision about storage time that paragraph 11-13 does. Nevertheless, we think that Army Regulation 27-20 must be read as a whole in order to understand the full scheme applicable to the resolution of loss or damage claims. Where one paragraph (11-13) defines "the depreciation applicable to any item," it would be illogical to define the "depreciated value of any item" in what essentially is a companion paragraph (11-27) to mean something different. We think the concept necessarily means the same thing throughout, for purposes of storage periods.

In sum, in our view the Army correctly set off against the carrier the non-depreciated (for storage time) value of the post-hole digger and fishing rod.

The Army held the carrier liable for the value of the bicycle because the member furnished, and the carrier was provided, notice of the loss within 75 days after delivery, as allowed by the Memorandum of Understanding. The Claims Group, however, noted that on the standard loss or damage form the member signed at delivery, Form 1840, the bicycle was checked off as having been delivered. The Claims Group determined that the carrier therefore should not be held liable for the bicycle absent an explanation of the inconsistency between the Form 1840 and the member's subsequent loss notice.

We do not agree with the Claims Group. The Army is correct that a member generally has 75 days after delivery to report missing items, so that the fact that the bicycle was not reported as missing at delivery is not dispositive of liability for the item. Moreover, there is nothing in the record establishing that it was, in fact, the member (as opposed to the driver, for example), who checked the space next to the bicycle listing on the Form 1840 to represent that the item had been delivered. Finally, we note that the Memorandum of Understanding itself provides that proper notice of later-discovered loss or damage within the prescribed period "shall be accepted by the carrier as overcoming the presumption of the correctness of the delivery receipt." On this record, then, the carrier should be held liable for the bicycle.

The Claims Group's decision is reversed.

Milton J. Socolar

for Comptroller General
of the United States