



Comptroller General
of the United States

Washington, D.C. 20548

144761

Decision

Matter Of: Stevens Transportation Co., Inc.

File: B-243750

Date: August 28, 1991

DECISION

Stevens Transportation Co., Inc., requests review of our Claims Group's settlement endorsing an Air Force set-off against funds due Stevens in connection with damage to a service member's shipment of household goods. We affirm the settlement.

The household goods were picked up at the member's residence on Scott Air Force Base on October 22, 1986, and then were placed into nontemporary storage in St. Louis, Missouri. Stevens picked them up at the storage warehouse on January 11, 1989, and transported them to Dayton, Ohio, where they were delivered on February 1, 1989. Upon delivery, the member reported that several items were damaged, including a waterbed base, which was warped. The property inventory at origin indicated that the waterbed base was scratched, chipped, and dented, but no warpage was reported. Because of the warpage, the Air Force set off \$113.01 from Stevens.

Stevens denies liability. It states that the warpage was not apparent to it at the time of pick-up at the warehouse because the bed was disassembled. The firm points out that the item was in nontemporary storage for more than 2 years, whereas Stevens had it for only 3 weeks, and argues that the cause of the damage must have been "extreme climatic conditions" affecting the waterbed while it was in storage.

We find no merit in Stevens' arguments.

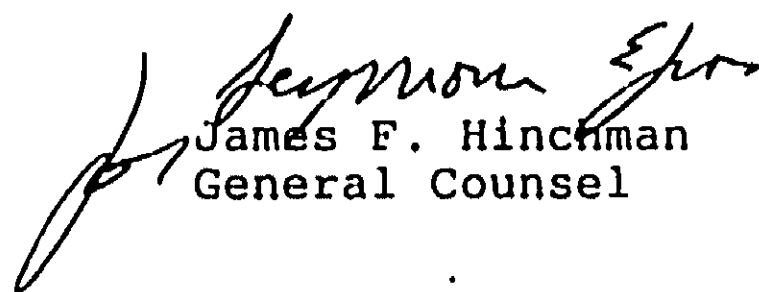
A prima facie case of carrier liability for damage is established by showing that the shipper tendered the goods to the carrier in a certain condition, that the property was delivered in a more damaged condition, and the amount of damage. See Missouri Pacific Railroad Co. v. Elmore & Stahl, 377 U.S. 134, 138 (1964). When goods pass through the custody of several bailees, it is a presumption of the common law that the damage occurred in the hands of the last one. See McNamara-Lunz Vans and Warehouses, Inc., 57 Comp. Gen. 415, 418 (1978). Once the shipper has established a prima facie

case of liability, the burden is on the carrier or other bailee to show either that the damage did not occur while in its custody, or that the damage occurred as a result of one of a number of causes for which the carrier is not liable (for example, the inherent nature of the item). Missouri Pacific Railroad Co., supra.

In McNamara-Lunz, the carrier alleged that the damages resulted from faulty packaging by the firm that packed the goods, and it contended that it had no responsibility to unpack prepacked items where there was no visible damage to the external shipping container. We held that a mere allegation of faulty packaging did not satisfy the carrier's burden of proof and overcome the presumption that the last bailee is liable for the damage. See also Brown Transport Corp., 55 Comp. Gen. 611 (1976).

We similarly do not think that Stevens has met its burden of proof here. We appreciate the fact that the storage warehouse had custody of the waterbed much longer than did Stevens. Other than for that reason, however, we have no basis to conclude that the warpage did not occur while the item was in Stevens' custody. Stevens has presented no evidence as to the actual conditions at the warehouse and how and why they must have caused the damage. Nor, for example, has the carrier shown that there was something inherent in the nature of the waterbed base that would have led to warpage without any outside influence. See Aalmod Transportation Corp., B-237658, Feb. 12, 1990. The record before our Office thus is insufficient to relieve Stevens, as the last bailee with custody of the waterbed base, of liability for the damage in issue. Id.; McNamara-Lunz, supra.

The Claims Group's settlement is affirmed.


James F. Hinchman
General Counsel