

DATE: August 30, 2000

In Re:

Stevens Worldwide Van Lines, Inc.

Claimant

Claims Case No. 00081412

CLAIMS APPEALS BOARD DECISION

DIGEST

Under the *Military-Industry Memorandum of Understanding on Loss and Damage Rules*, effective on January 1, 1992, if a carrier fails to present its damage estimate prior to the dispatch of the member's claim, to consider a carrier's estimate the carrier must show that the estimate submitted by the member was unreasonable in comparison with the market price in the area or that the price was unreasonable in relation to the value of the goods prior to being damaged.

DECISION

Stevens Worldwide Van Lines, Inc. (Stevens) appeals the February 9, 2000, Settlement Certificate of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 99102523 which disallowed \$987 of \$1,129.50 claimed by Stevens as a refund of the offset made against it by the Navy for transit damages to a service member's household goods. [\(1\)](#)

Background

The record indicates that Stevens' agent picked up the shipment in Port Mugu, California, on August 23, 1996, and another agent delivered it to the member in Belleville, Illinois, on September 11, 1996. In relevant part, the Descriptive Inventory listed Item 164 as a mirror carton, containing a large or living room glass that was carrier-packed. At delivery, the member and the carrier's agent noted in the *Joint Statement of Loss or Damage at Delivery* (DD Form 1840) that there were two pieces of concaved glass from a curio cabinet that were broken. The member obtained a repair estimate from a glass and mirror company for \$1,287. [\(2\)](#) The member dispatched a *Notice of Loss or Damage* (DD Form 1840R) on November 4, 1996, advising Stevens of additional damage, essentially repeating notice of the broken glass in the curio cabinet. On February 3, 1997, Stevens hired a furniture repair firm to inspect the damage and the firm provided a repair estimate (mailed to the Navy on March 1, 1997 and received on arch 21, 1997) indicating that the broken glass in the curio cabinet could be repaired for \$300. On February 27, 1997, the Navy dispatched its *Demand on*

Carrier/Contractor (DD Form 1843) containing its claim against Stevens for \$1,287 of damage to the glass. See line item 1 on the *List of Property and Claims Analysis Chart* (DD Form 1844). The Navy advised Stevens that its repair estimate was late and that Stevens' repairer was not an expert in glass repair. The issue here is the appropriate valuation of the damages.

Stevens argues that the estimate it provided must apply to the exclusion of the member's estimate, and that its estimate was still timely because the member's estimate was unreasonable.⁽³⁾ Stevens contends that the Navy had not demonstrated that Stevens' repairer lacked appropriate expertise or that it was unable to repair the item, and explains that its inspector obtained his glass estimate from a glass company. Thus, Stevens suggests that it has provided two estimates for \$300. Stevens argues that the Navy failed to show that its own repairer had physically inspected the broken curio cabinet, and it speculates that the member may have obtained a telephonic quote using the dimensions as a guideline. Stevens also argues that the service member failed to substantiate the value of the curio cabinet, noting that the J.C. Penney catalogue contained numerous curio cabinets with bent glass that range in price from \$309 to \$379 before depreciation.

Discussion

The single issue here is whether Stevens' estimate meets the requirements of the MOU provision quoted above. Stevens provided a lower alternative estimate, supported by a quote from a glass company, but it provided no evidence to establish that the member's estimate was unreasonable in comparison to the market price or that it was unreasonable in relation to the value of the goods before damage.

We appreciate the effort that Stevens made to obtain some evidence to support its position. But the mere fact that the carrier is able to obtain an alternative, lower estimate does not establish that the member's estimate was unreasonable. Compare *Interstate International, Inc.*, B-197911.6, May 25, 1989, where, at the time, a comparable standard then applied to all carrier estimates and not just to those presented after the transmittal of the claim. There may be various ways that a carrier could show that the member's estimate is unreasonable, but we note that Stevens failed to show specific mistakes that the member's estimator made in arriving at his/her estimate. Stevens speculates, but does not prove, that the member obtained a telephone estimate on the glass. Even if it had been obtained in that manner, Stevens estimator had to explain how this practice lead to an incorrect result, as well as providing clear evidence of the correct result. This type of detail is non-existent in Stevens' estimate.

The member stated in the DD Form 1844 that the original cost was \$2,500, and the replacement cost is \$2,500. While Stevens alludes to the existence of various curio cabinets in the J.C. Penney catalogue in the \$309-\$379 range, it offered no evidence to show that these were comparable to the curio cabinet and glass tendered for shipment by the member. Having inspected the damaged property, Stevens was in a position to offer evidence showing that the member's curio cabinet was no different than the J.C. Penney selections that it asks us to consider.

Conclusion

We affirm the Settlement Certificate.

Signed: Michael D. Hipple

Michael D. Hipple

Chairman, Claims Appeals Board

Signed: Christine M. Kopocis

Christine M. Kopocis

Member, Claims Appeals Board

Signed: Michael H. Leonard

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Member, Claims Appeals Board

1. This matter involves Personal Property Government Bill of Lading (PPGBL) VP-769,371; Navy Claim No. DA-97-157; and Stevens' claim 96-69700.

2. The estimate dated October 1, 1996, was for two pieces of bent glass, S-shaped, 20 x 41 1/2 DS glass (furnished only). Stevens' estimator offered to replace two pieces measuring 41 x 10 1/2, and in its October 1, 1999, correspondence to the Naval Legal Services Office, Stevens discussed two pieces at 12 x 41.

3. The *Military-Industry Memorandum of Understanding on Loss and Damage Rules* (MOU) effective on January 1, 1992, provides in paragraph III(B)(3): "If the carrier provides the appropriate claims office with a low repair estimate after the Demand on Carrier has been dispatched . . . it will be considered in the carrier's recovery rebuttal or appeal process if lower than the estimate used by the claims office and if it establishes that the estimate submitted by the member was unreasonable in comparison with the market price in the area or that the price was unreasonable in relation to the value of the goods prior to being damaged."