

December 17, 2002

In Re:

Resource Protection
on behalf of
Covan International, Inc.

Claimant

Claims Case No. 02121101

CLAIMS APPEALS BOARD DECISION

DIGEST

In the absence of clear and convincing contrary evidence from a carrier, we will accept a *Notice of Loss or Damage*, DD Form 1840R, that the military service certifies as a part of its official claims file and that appears to be properly prepared, as evidence that a copy was dispatched to the carrier at the address and on the date indicated therein.

DECISION

Resource Protection, on behalf of Covan International, Inc. (Covan), appeals the November 22, 2002, Settlement Certificate of the Defense Office of Hearings and Appeals (DOHA), in DOHA Claim No. 02091303, which sustained the Air Force's setoff against Covan for recovery of items lost or damaged in the transit of a service member's household goods. ⁽¹⁾ Resource Protection seeks a refund of \$675 of the \$800 setoff on the basis that Covan never received written notice of loss or damage for items listed on the *Notice of Loss or Damage* (DD Form 1840R).

Background

The record indicates that Covan picked up the member's household goods from Okinawa, Japan and later delivered them in Callaway, Florida, on August 13, 1998. The record includes a carbon copy of a *Joint Statement of Loss or Damage at Delivery* (DD Form 1840) signed on August 13, 1998, by the member and the carrier's representative, noting damage to two items not in dispute in this appeal. Significantly, block 9 of the DD Form 1840 contained the following address for the carrier: "Covan International, Inc., 101 Loftin Rd. P.O. Box 1330, Dothan AL 36302." The opposite side of the DD Form 1840 contains the DD Form 1840R, the form used to notify the carrier of additional damage not noted on the day of delivery. The member reported damage to several additional items on this DD Form 1840R. The certification blocks on the bottom of the DD Form 1840R state that the Air Force representative dispatched the DD Form 1840R listing the additional damages on August 18, 1998 (5 days after delivery), to the address provided by the carrier in block 9 of the DD Form 1840. The administrative report of the Air Force Legal Services Agency notes that it was advised at a later time that Covan changed its address, but even if this explains Covan's failure to receive the copy of the DD Form 1840R, the Air Force stresses that its representative timely dispatched the DD Form 1840R to the address in block 9 of the DD Form 1840. The carrier has a duty to provide a correct address in block 9.

On appeal, Resource Protection simply argues that neither it nor Covan ever received a copy of the DD Form 1840R, and that if such a document existed, the Air Force would have already provided a copy. Under the *Joint Military-Industry Memorandum of Understanding on Loss and Damage Rules* (JMIMOU), the carrier shall accept written documentation on the DD Form 1840R, dispatched within 75 calendar days of delivery to the address listed in block 9 on the DD Form 1840, as overcoming the presumption of correctness of the delivery receipt. Generally, loss or damage

reported by the member to the claims office more than 75 days after delivery will be presumed not to have occurred while the goods were in the possession of the carrier. Resource Protection's allegation that neither it nor its client ever received the DD Form 1840R appears to be its only evidence that the DD Form 1840R was not dispatched within 75 days of delivery.

Discussion

The DD Form 1840R is an official form that the member and claims officials must properly complete and dispatch to the carrier. The purpose of the form is to advise the carrier that the member, and the military service in subrogation, may file a claim against the carrier for the loss or damage to the item(s) indicated, and to record the date and address to which the claims office's representative dispatched a copy of the notice. The DD Form 1840R appears to be regular on its face and copies were maintained, as required, in the claims file for this transaction. This is substantial evidence of dispatch to the proper address indicated in block 9 of the DD Form 1840, on August 18, 1999, well within 75 days of delivery. *See* DOHA Claims Case No. 02041501 (May 14, 2002), and the authorities cited therein. [\(2\)](#)

Conclusion

We affirm the Settlement Certificate. We have dispatched a copy of the DD Form 1840R to Resource Protection under separate cover.

Signed: Michael D. Hipple

Michael D. Hipple
Chairman, Claims Appeals Board

Signed: William S. Fields

William S. Fields
Member, Claims Appeals Board

Signed: Jean E. Smallin

Jean E. Smallin
Member, Claims Appeals Board

1. This matter involves Personal Property Government Bill of Lading ZP-389,185; Air Force Claim 99-440 (Tyndall AFB); and Covan Claim No. 06166199.
2. This claim also involved Resource Protection and another Covan entity.