

DATE: September 25, 2003

In Re:

American Van Services, Inc.

Claimant

Claims Case No. 03080416S

CLAIMS APPEALS BOARD DECISION

This decision supplements our decision of August 12, 2003, involving the above matter. The **Background** and **Discussion** are incorporated by reference.

In remanding this matter to the Navy, we asked it to provide documentary evidence to support the member's claim that he purchased all of his shipped audio/video equipment in the period from September through November 2000. The Navy's response of September 17, 2003, does not contain any supporting documentation. Item 105 of the Descriptive Inventory specified that the member tendered to American for shipment a Mitsubishi VCR Model HS-U48 and a Pioneer tape deck Model CT-40. Copies of pages from the 2003 Orion Blue Books, supplied by American, indicate that these model numbers were manufactured in the period 1991-1993. It is unlikely that these were sold new in 2000. Contrary to the Descriptive Inventory, the member claimed on the DD Form 1844 that he tendered different VCR and tape deck models to American (HS-U746 and a CT-W606DR), and failed to explain the differences. While the Navy's explanation is still less than clear, we interpret the administrative report and the response of September 17th to be that the Navy believes that the claimed models (not the ones specified in Item 105) were available for sale in 2000.

We also asked the Navy to explain why the member notified American, and later claimed, the loss of a Pioneer speaker even though the Descriptive Inventory specified that the member tendered only RCA speakers. The Navy has advised us that it cannot explain this difference.

Due to the specificity of Item 105 of the Descriptive Inventory, and the Navy/member's failure to explain the differences between Item 105 and his claim, we find that the member tendered, and American failed to deliver, the VCR and tape deck models specified in the Descriptive Inventory. We must assume that the member purchased these items at a point in time that they would have depreciated to their salvage value at the time of tender or delivery. Accordingly, using the replacement costs of the claimed models as the applicable replacement costs, and depreciating those costs to the salvage value as American proposed in its letter to the Navy of October 2, 2002, we find American liable for \$59.62 of the \$238.49 claimed for the VCR and \$57.49 of the \$229.95 claimed for the tape deck.

Item 105 specifically noted that the member tendered RCA speakers and provided the model numbers (SP 2099 AN and SP 9952). The member notified the carrier and claimed a missing Pioneer speaker system (Model S-DF3-K) from Item

105. The Navy/member did not provide any explanation for this difference. Accordingly, we must assume that the member never tendered a Pioneer speaker system and/or that the missing RCA speaker system mentioned in Item 105 was delivered. The carrier should be credited \$349.95 for the missing speaker system.

Conclusion

We modify the Settlement Certificate for the reasons stated herein. Overall, the carrier should be refunded \$701.28 if otherwise proper.

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