

DATE: June 16, 2006

In Re:

Manassas Transfer, Inc.

Claimant

)
Claims Case No. 06060504

CLAIMS APPEALS BOARD

RECONSIDERATION DECISION

DIGEST

Generally, the service member/shipper is not estopped from claiming more damage to an item than that specifically noted on the DD Form 1840/1840R, when the DD Form 1840/1840R is timely and adequate.

DECISION

Manassas Transfer, Inc. (Manassas) requests reconsideration of the May 30, 2006, appeal decision of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 06042401 which held the carrier liable for transit damages to a service member's household goods.

Background

Manassas asks us to reconsider the appeal decision with respect to DOHA's damage valuation of three Descriptive Inventory items: Item 230 (sugar bowl), Item 139 (socket set), and Item 286 (coffee table). Manassas offers additional evidence to show that the missing sugar bowl should have been depreciated as crockery, not as fine china, and that the rate of depreciation is 10 percent per year (maximum of 75 percent) that would yield it a refund of \$18. The carrier contends that there is no proof that the socket set being claimed was a Craftsman brand, as evidenced by the Costco receipt showing that the 148 piece set was purchased at a cost of \$59.99, and that the proper measure of damages is \$30, not even the \$56.99 it offered on February 27, 2006. Finally, the carrier seeks a refund of \$75 of the \$85 of its liability on the table because, even though the claimant reported a broken leg, his repair estimate only supported the repair of a pre-existing scratch.

Discussion

Our review of the record that was available to the Navy and DOHA supports their finding that the sugar bowl was china, not crockery. The damage determination, with a 10 percent flat depreciation rate, is supported by the Joint Military Industry Depreciation Guide, a copy of which is found at DA Pam 27-162, Table 11-4 (August 8, 2003). The carrier's claim for a \$18 refund is unsupported.

We agree that the record does not indicate that the socket set was a Craftsman brand, but the issue is the amount of damages. Based on the shipper's receipt, the DOHA appeal decision reasonably assessed damages in the amount of \$59.99.

The record reasonably supports DOHA's determination of carrier liability for the coffee table. A shipper establishes a *prima facie* case of carrier liability when the shipper shows delivery in good condition, failure to deliver or delivery in a damaged condition, and the amount of damages. See *Missouri Pacific Railroad Company v. Elmore & Stahl*, 377 U.S.

134, 138 (1964). The DD Form 1840 adequately notified Manassas to investigate for new, transit-related damage. The carrier did not inspect or prepare its own repair estimate. In this situation, the shipper is not estopped from claiming more damage to an item than that specifically noted on the DD Form 1840/1840R. *See* DOHA Claims Case No. 99060720 (June 23, 1999). The DD Form 1844 indicates that the legs were broken as reported due to snapped dowels, which accounted for \$10 of the \$85 assessed against Manassas for repairs. The carrier does not dispute this portion of the damages. The DD Form 1844 explained that the additional \$75 of assessed liability repaired additional scratches that were incurred in transit.

Conclusion

For the reasons stated, the request for reconsideration is denied, and the appeal decision is sustained. In accordance with 32 C.F.R. Part 282, Appendix E, paragraph o(2), this is the final Department of Defense action in this matter.

Signed: Michael D. Hipple

Michael D. Hipple

Chairman, Claims Appeals Board

Signed: Christine M. Kopocis

Christine M. Kopocis

Member, Claims Appeals Board

Signed: Catherine M. Engstrom

Catherine M. Engstrom

Member, Claims Appeals Board