

DATE: March 7, 2007

---

In Re:

Advantage Forwarders, Inc.

Claimant

---

)  
Claims Case No. 07030201

**CLAIMS APPEALS BOARD**  
**RECONSIDERATION DECISION**

**DIGEST**

A fact finder had a reasonable basis to conclude that there was no evidence of new transit-related damage to an item when the damage claimed at delivery was not shown to be different than the damage documented on the inventory at origin.

**DECISION**

The Carrier Recovery Claims Branch of the Department of the Navy requests reconsideration of the February 9, 2007, appeal decision of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 07010802. In that decision our Office allowed a \$765.25 refund to the carrier.

**Background**

In the appeal decision, the DOHA adjudicators allowed Advantage Forwarders, Inc., a refund of \$765.25, (a salvage credit of \$115.75 for a chair and a refund of \$649.50 for couch). The Navy's request for reconsideration involves the \$649.50 refund for the couch. After reviewing the inventory and damage claimed by shipper at delivery, the adjudicators found no evidence that the condition of the couch at delivery was more damaged than the described pre-existing damage (PED). In addition, the estimates submitted by the member and the carrier were not enough to support a finding of new damage to the couch because neither distinguished between new damage and PED. The adjudicators concluded that without a statement from the member (to which this Office has traditionally given much weight), the record lacked any evidence to support a finding that the damage was new or greater than the damage reflected on the inventory. The Navy requests further review of the two estimates. In addition, the Navy now submits a statement by the member dated February 22, 2007, addressing tender of the couch.

**Discussion**

After review of the file which includes the two estimates, we find there was reasonable support for the finding that the record lacked evidence to support new transit-related damage to the couch. As for the member's statement now submitted by the Navy, we note that prior to issuing the decision, our Office advised the Navy that the record did not contain any evidence that the damage claimed was new damage. On more than one occasion, our Office requested the Navy provide a statement from the member or other evidence indicating the difference between the PED and the damage claimed at delivery. For reasons unknown, the Navy did not provide a statement from the member as requested. Therefore, we conclude that based on the record in the file at the time, our Office made a reasonable fact determination and refund to the carrier in the amount of \$649.50 for the couch is appropriate.

**Conclusion**

The Navy's request for reconsideration is denied, and we affirm the February 9, 2007, appeal decision in DOHA Claim No. 07010802. In accordance with DoD Instruction 1340.21,

¶ E7.15.2 this is the final administrative action of the Department of Defense in this matter.

Signed: Michael D. Hipple

---

Michael D. Hipple

Chairman, Claims Appeals Board

Signed: Jean E. Smallin

---

Jean E. Smallin

Member, Claims Appeals Board

Signed: Catherine M. Engstrom

---

Catherine M. Engstrom

Member, Claims Appeals Board