

DATE: October 15, 1996

In Re:

Andrews Van Lines, Inc.

Claimant

Claims Case No. 96070215

CLAIMS APPEALS BOARD DECISION

DIGEST

A petition for reconsideration is denied where it essentially only restates arguments in the original request for review and presents no evidence demonstrating an error in fact or law in the prior decision.

DECISION

Andrews Van Lines, Inc. (Andrews), petitions for reconsideration of the Comptroller General's decision B-261770, Feb. 27, 1996, providing it a partial refund of the \$1,829.82 set off by the Air Force for loss and damage to the household goods of a service member under government bill of lading No. TP-491,639. [\(U\)](#) Pursuant to Public Law No. 104-53, November 19, 1995, effective June 30, 1996, the authority of the U.S. General Accounting Office (GAO) to adjudicate carriers' reclaims of amounts deducted by the Services for loss and/or damage was transferred to the Director, Office of Management and Budget, who delegated this authority to the Department of Defense.

Background

Andrews picked up the member's goods from non-temporary storage in Mississippi in September 1990 and delivered them to North Carolina in December 1990. The Air Force paid the member \$2,259.86 for transit loss and damage to his household goods and it collected \$1,829.82 from Andrews by set off. The carrier appealed and GAO affirmed the set off in Settlement Certificate Z-2729037(90), May 24, 1995. On appeal to GAO, Andrews received a partial refund of \$152.53. On reconsideration, Andrews is seeking an additional \$608.78. At issue is tender of a water pik and china candle holder, proof of additional damages to a number of items with pre-existing damage (PED) noted on the descriptive inventory and rider, and the amount of carrier liability for two chests. For each of these issues, Andrews reargues its position.

Discussion

To prevail on reconsideration, the carrier must demonstrate an error in fact or law; however, neither disagreement with a decision nor restatement of arguments already made establishes that the decision was based on an error of fact or law. See DOHA Claims Case No. 96070201 (September 5, 1996). There is no dispute on the facts, and Andrews' petition for reconsideration essentially reargues its prior legal position. This position was considered by the Air Force and at two separate levels at GAO.

The administrative report indicates that the agency determined that proof of tender of the water pik and china candle holder was satisfied. With regard to the items with pre-existing damage noted on the descriptive inventory, the administrative report indicates that the agency determined that the level of damage at destination exceeded the level of damage noted on the descriptive inventory and the rider. The carrier provides no evidence that there was an error of fact or law involved with these decisions. The carrier remains liable for these items.

The carrier also provides no evidence to dispute the agency's determination of the amount of damages to the wicker chest and the wood chest. The agency determined that the wicker chest was not repairable and that the damage to the wood chest is new. The carrier remains liable for these items.

Conclusion

The petition for reconsideration is denied.

/s/ _____

Michael D. Hipple

Chairman, Claims Appeals Board

/s/ _____

Christine M. Kopocis

Member, Claims Appeals Board

/s/ _____

Joyce N. Maguire

Member, Claims Appeals Board