In Re:

American International Moving, Corporation

Claimant

DATE: June 6, 1997

Claims Case No. 96121606

## CLAIMS APPEALS BOARD DECISION

### DIGEST

The Notice of Loss or Damage, DD Form 1840R, merely provides general notice to the carrier that an item of personal property is missing or damaged and that the carrier should investigate the facts surrounding the loss. The service member is not required to precisely describe the damage in order to timely and adequately notify the carrier. Where a service member dispatches notice within 75 days of delivery notifying the carrier that his television has "problems coming on, loose inside," but he did not also notify the carrier of the reason for the malfunction (external damage to the rear panel of the television), the carrier has sufficient notice to inspect.

### DECISION

American International Moving, Corporation (American) appeals our Settlement Certificate 96070168, December 2, 1996, which disallowed American's claim of $230.44 in partial recovery of the $485 the Army offset for transit damage caused by American during the shipment of a service member's household goods.[(1)] The goods were transported between Pensacola, Florida and Fort Bragg, North Carolina in 1994.

### Background

American's appeal is related to three items on the Descriptive Inventory: Item 103, a kitchen chair that American admittedly lost; and two items, Item 97, a small television, and Item 14, a brass plant stand, which were damaged.

On appeal, American argues that it was not provided information concerning the brand name and model of the chair, that it was not provided data that supports the undepreciated replacement cost of $200, and that the Army used a depreciation factor of 10 percent with no consideration of pre-existing damage (PED). In its initial claim submission to the General Accounting Office (GAO)[(2)] to recover the Army's offset, American agreed that it received the chair, but that it was "badly worn, soiled, scratched and rubbed." American believes that the 10 percent depreciation factor assigned by the Army is not appropriate given the extensive PED noted on the descriptive inventory. The carrier noted that generally it would have been allowed 7 percent per year for normal wear. The Army's administrative report indicates that it assigned the replacement cost as $200, depreciated that by 7 percent per year for two years ($28), then reduced this result ($172) by an additional $50 to reflect PED.

Similarily, American contests the rate of depreciation for the brass plant stand. The service member reported that when he received it, the stand was "scratched all the way thru top layer." American argues that the scratch for which it may be responsible was no more serious than the pre-existing rubs, looseness and rust. The Army's administrative report indicates that it granted the carrier normal depreciation, plus an additional 20 percent for PED.

Concerning the television, American contends that the external damage was not noted on the Joint Statement of Loss or Damage at Delivery (DD Form 1840) nor on the Notice of Loss or Damage (DD Form 1840R) within the 75 days prescribed.[(3)] Here, the DD Form 1840R merely indicated that the television had "problems coming on, loose inside."

### Discussion

American's argument concerning the value of the kitchen chair is untimely. When American filed its claim at GAO, it challenged only the proper rate of depreciation, not the evidence the Army used to support the replacement cost. In response, the Army's administrative report only addressed the depreciation issue, not the replacement cost issue. This Board is not the forum to raise, or in this case to re-raise, undeveloped factual issues. [(4)] See DOHA Claims Case 96070205 (September 5, 1996) and compare B-252972.2, July 14, 1995. Although this is dispositive, American has not demonstrated why it could not have ascertained the brand name, model number and other information about the chairs if it had conducted a proper inspection of the loss and damage upon receipt of the service member's DD Form 1840R.

Further, we will not question an agency's calculation of the value of the damages to items in a shipment of a service member's household goods unless the carrier presents clear and convincing evidence that the agency acted unreaonably. See DOHA Claims Case No. 96070221 (October 7, 1996). American disagrees with the amount of the additional depreciation the Army credited to it to reflect PED to the chair and plant stand, but the carrier failed to offer clear and convincing evidence that the Army's determinations were unreasonable.

The service member's DD Form 1840R did not notify the carrier that the back cover of the television was damaged, but he did notify the carrier of the result of this external damage; namely, that the television did not work. When the service member gave the television to a repairer for an estimate, the repairer noticed the damage immediately. While not very specific, the notice that the service member provided to American was sufficient to alert the carrier that the service member intended to make a claim against it and that the carrier should investigate the facts surrounding the loss or damage to the particular item. The notice was legally sufficient. SeeDOHA Claims Case No. 96070212 (November 27, 1996); and Andrews Forwarders, Inc., B-257515, Dec. 1, 1994.

**Conclusion**

We affirm the settlement.

Signed: Michael D. Hipple

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Michael D. Hipple

Chairman, Claims Appeals Board

Signed: Joyce N. Maguire

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Joyce N. Maguire

Member, Claims Appeals Board

Signed: Christine M. Kopocis

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Christine M. Kopocis

Member, Claims Appeals Board

1. This shipment involved Personal Property Government Bill of Lading SP-263,830, and Army Claim # 95-301-0806.

2. Pursuant to Pub. L. No. 104-316, 202(n), 110 Stat. 3826, October 19, 1996, title 31 of the United States Code was amended to provide that the Secretary of Defense shall settle claims by transportation carriers involving amounts collected from them for loss or damage incurred to property incident to shipment at government expense. This claim

was transferred from GAO to the Department of Defense after American had filed its claim with GAO in 1995 but before settlement.

3. The Joint Military Industry Memorandum of Understanding on Loss and Damage Rules, effective January 1, 1992, indicates that the carrier shall accept written notice of loss or damage dispatched to the carrier within 75 calendar days from the date of delivery as sufficient written documentation to overcome the presumption of the correctness of the delivery receipt.

4. American raised this concern in its April 28, 1995, letter to the U.S. Army Claims Service, but it did not press this issue. It argued instead the replacement value was $135, the original purchase price. The Army Claims Service never accepted the original purchase price as the proper replacement cost, and American did not reinstitute its argument when the claim was filed at GAO.