
In Re:

Midwest Moving & Packing, Inc.

Claimant

DATE: July 30, 1997

Claims Case No. 97070335

CLAIMS APPEALS BOARD DECISION

DIGEST

For evidentiary purposes, this Board will not accept a carrier's copy of a Descriptive Inventory in lieu of the carbon completed simultaneously with the original and found in the official record when the carrier does not offer clear and convincing evidence which authenticates its copy of the Descriptive Inventory as a reflection of the true and original version of the Descriptive Inventory and offers the copy into evidence late in the adjudicatory process after the Agency had filed its administrative report.

DECISION

Midwest Moving & Packing, Inc. (Midwest), appeals the settlement of the Defense Office of Hearings and Appeals with respect to its claim for a refund of \$230.40 that was offset for transit damage to the household goods of a service member.⁽¹⁾

Background

The facts are set forth in the Settlement Certificate, but we will summarize them here for the convenience of the reader. Descriptive Inventory Item 68, an item listed as an entertainment center with pre-existing damage (PED) of a loose rear and a right faded top. On the Joint Statement of Loss or Damage at Delivery (DD Form 1840) the shipper and the carrier's agent noted that the item was falling apart and that the hinges were bent and loose. Midwest initially accepted liability on account of the additional damages, and the parties agree that the depreciated replacement cost was \$230.40.

Midwest filed a reclaim on the basis that Item 142 of the Descriptive Inventory was a continuation of Item 68, and that the PED listed with Item 142 (hole in back very flimsy loose bottom) shows that the transit damage claimed for Item 68 actually was PED. The Army concluded, and our adjudicators agreed, that Item 142 was a continuation of Item 141, which involved a microwave oven. Item 141 was described as "dishpack ctn. CP-microwave-Carousel II-116017" and the line for 142 was blank across half the distance of the line, then read: "-hole in back - very flimsy - L2."

On Appeal, Midwest supplied this Board with a copy of the Descriptive Inventory with different information in the line associated with Item 142. In Midwest's version of the Descriptive Inventory, the words "continue Entertainment Ctr." were handwritten in the blank space that appears before the words "-hole in back - very flimsy - L2" in the original carbon version contained in the official record.

Discussion

The official record we obtained from the administrative agency contained a duplicate original in carbon of the Descriptive Inventory with a blank space across about half of the distance of the line associated with Item 142. Midwest did not present clear and convincing evidence which authenticates its copy of the Descriptive Inventory as a reflection of the true and original version of the Descriptive Inventory, nor does it explain why the carbon, prepared simultaneously with the original, appears to be blank. This is the only place in the Descriptive Inventory in which a problem like this is identified. Additionally, it is more probable that Item 142 was related in some manner to Item 141 than to Item 68. We also note the carrier's late presentation of its version of the Descriptive Inventory after the Army

had filed its administrative report. For all of these reasons, we accept the carbon as facially valid and find that Midwest has not met the evidentiary burden of proving that Item 142 is a continuation of Item 68. Compare DOHA Claims Case No. 96070232 (November 4, 1996).

Conclusion

Accordingly, we affirm the Settlement.

Signed: Michael D. Hipple

Michael D. Hipple

Chairman, Claims Appeals Board

Signed: William S. Fields

William S. Fields

Member, Claims Appeals Board

Signed: Christine M. Kopocis

Christine M. Kopocis

Member, Claims Appeals Board

1. The Settlement Certificate involves DOHA Claim No. 97051226, dated June 23, 1997.