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DECISION



R. Vesterman
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-189436

DATE: January 25, 1978

MATTER OF: True Transport Inc.

DIGEST

Carrier has burden of proving correctness of transportation container or trailer placement charge originally collected on shipment. See cases cited.

True Transport Inc. (True), in a letter dated June 23, 1977, requests the Comptroller General of the United States to review the General Services Administration's (GSA) action on several of its bills for transportation charges. See Section 201(3) of the General Accounting Office Act of 1974, 49 U.S.C. 66(b) (Supp. V, 1975). GSA, after auditing the bills, notified True of overcharges totaling \$3,090.84 which in the absence of refund were collected by deduction. 49 U.S.C. 66(a). Under regulations implementing Section 201(3) of the Act, a deduction action constitutes a reviewable settlement action [4 C.F.R. 53.1(b)(1) and 53.2 (1977)]; True's letter complies with the criteria for requests for review of that action. 4 C.F.R. 53.3 (1977).

GSA reports that True transported 20 shipments of various commodities in 1974 from Army Depots in Pennsylvania consigned to the ports of Bayonne and Port Elizabeth, New Jersey. A representative shipment moved on Government bill of lading (GEL) No. K-6148263, issued May 7, 1974; it covered a shipment of tent pins, poles or slides and was transported from the Defense Depot at Mechanicsburg, Pennsylvania, to Port Elizabeth, New Jersey.

True collected transportation charges of \$368.71 on the shipment. They included line-haul charges of \$195, plus what is designated as a "Note E Placement charge" of \$152.84 and a 6 percent fuel surcharge of \$20.87. GSA in its audit of those charges, 49 U.S.C. 66(a) (Supp. V, 1975), issued a notice of overcharge for \$162.01, consisting of the placement charge of \$152.84 plus \$9.17 of the fuel surcharge, because True did not furnish any evidence to establish the liability of the United States Government for the placement charge. In the absence of refund, GSA collected the overcharge by deduction; True requests review of that action.

True contends, in effect, that the shipper through administrative channels ordered from a steamship line the placement of a certain number of empty containers at the origin depot. The steamship line notified True of the order and True contends that the shipper is called the day before the date the empty containers should be placed at the depot and that the scheduling of the pickup time is coordinated with the shipper. True sends a driver and tractor to the steamship line's pier to dray the empty containers to the depot's point of loading at the pickup time specified and required by the shipper. The empty steamship containers are then loaded and sealed by the shipper and returned to the steamship line pier for further loading on a ship for transportation to an overseas destination. True further states that its Government Rate Quotation I.C.C. No. 8 provides for the line haul charges from the point of pickup to the pier and, in addition, that Note E provides for assessment of a placement charge under certain conditions.

GSA agrees essentially with True's contentions. However, GSA states that True did not submit proper documentation for the placement charges because they ". . . were [not] accompanied by supporting documents as required by the tariff, i.e., either by a certified statement of the Administrative Office or third-party receipts."

We agree that Note E of Quotation I.C.C. No. 8 provides that rates in the quotation are subject to placement charges as shown in Tariff No. 10-W, MF-I.C.C. No. A-2410, Item 264, issued by the Middle Atlantic Conference Agent (MAC). Item 264A, Supplement 2, to MAC Tariff 10-X, MF-I.C.C. No. A-2510, the successor tariff to No. 10-W, and the one in effect at the time the shipment here moved is titled "EXPORT, IMPORT, COASTWISE AND INTERCOASTAL SHIPMENTS IN TRAILERS RECEIVED FROM OR DELIVERED TO WATER CARRIERS" and states in paragraph 5:

"When a water carrier furnishes one or more empty trailers to a motor carrier, upon request of shipper, for transportation of shipments to water carrier piers or other locations designated by water carriers, and the trailers are made available to the motor carrier on less than the number of days . . . specified in Column A below (in this case, "2"), prior to the inland consignor's required loading date, the additional charge as shown in

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Column B below (in this case "\$152.84"), opposite the applicable rate basis number, will be assessed for moving each trailer empty from the point of pick up to the inland point of loading thereof. . . ." (Emphasis ours)

The tariff item does not require supporting documents, as stated by GSA, but it seems clear that to establish the liability of the United States for the placement charge True must show at a minimum that the shipper specifically requested the service described in Item 264A. The shipment on GBL K-6148263 originated at the Defense Depot at Mechanicsburg and there is no indication on the GBL or otherwise that the placement service was requested by the shipper. And True has presented no evidence other than its explanation that the service was requested.

We remind True that it has the burden of proving the correctness of the freight charges it originally collected on the shipment transported under GBL No. K-6148263. United States v. New York, New Haven & Hartford RR, 355 U.S. 253 (1957); Pacific International Express Co. v. United States, 167 Ct. Cl. 266, 270 (1964). Benjamin Motor Express, Inc. v. United States, 251 F.2d 547, 548, (1st Cir. 1958); D-189100, December 27, 1977, 57 Comp. Gen. ___; 55 Comp. Gen. 301 (1975); 51 Comp. Gen. 208, 214 (1971). Further, GSA regulations published at 41 C.F.R. subpart 101 (1976) put all carriers on notice that documentation clearly establishing the liability of the United States must support each claim and that bare assertions or conclusions are unacceptable. 41 C.F.R. 101-41.603-3 (1976). See also the GSA basis of claim settlements. 41 C.F.R. 101-41.604 (1976).

Based on the present record, GSA settlement action on the shipment moving under GBL No. K-6148263 (and on those moving under the other 19 GBLs) is correct and it is sustained.

True also has requested our advice about filing a claim with GSA for the difference between rates in its Section 22 Quotation and those in its published tariff. It is not our policy nor do we have any authority to advise a carrier as to the feasibility of filing a claim with another Government agency. However, if True files a claim for transportation charges with GSA, and if True

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disagrees with GSA's settlement of the claim, we could consider it at that time under our authority for review of GSA transportation settlement actions. 4 C.F.R. 53 (11.00).


Deputy Comptroller General
of the United States