



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 8, 2008

CBCA 1255-RATE

In the Matter of LOGISTICS INTERNATIONAL, INC.

Alan F. Wohlstetter and Stanley I. Goldman of Denning & Wohlstetter, Washington, DC, appearing for Claimant.

James F. Fitzgerald, Director, Audits Division, Office of Transportation and Property Management, Federal Supply Service, Arlington, VA, appearing for General Services Administration.

Lt. Col. Sheila McDonald, Staff Judge Advocate, Surface Deployment and Distribution Command, Department of the Air Force, Scott AFB, IL, appearing for Department of Defense.

KULLBERG, Board Judge.

Logistics International, Inc. (LII) brings this claim seeking a refund of \$12,093.71 for offsets taken by the Transportation Audit Division of the General Services Administration (GSA). LII did not file an administrative claim against GSA in response to the collection action, but instead, filed its claim with this Board. Although LII asserts that there is only a legal issue as to the timeliness of the offsets, this Board has no jurisdiction over a claim that has not been first submitted to GSA for review.

The relevant facts are not in dispute. GSA issued notices of overcharges (NOCs) during 2004 for payments made to LII on various Government Bills of Lading (GBLs). Payments to LII on the GBLs were made during 2002 and 2003. LII protested the NOCs during 2004, and GSA modified the NOCs on April 8, 2005. On February 15, 2008, GSA

collected the overcharges by offsets that totaled \$12,093.71. LII did not file an administrative claim regarding the collection by offset with GSA, but, instead, filed its claim directly with this Board.

When a transportation service provider (TSP) fails to pay or appeal an overcharge, GSA can instruct “one or more Government disbursing offices to deduct the amount due to the agency from an unpaid TSP’s bill.” 41 CFR 102-18.640(b) (2007). Following such a collection action, a “TSP may file an administrative claim involving a collection action resulting from the transportation audit performed by the GSA directly with the GSA Audit Division.” *Id.* at 102-118.645. It is only after GSA has acted on an administrative claim that a TSP may seek review of GSA’s settlement action at this Board. *Id.* at 102-118.650. The failure by a claimant to file at GSA such an administrative claim with regard to a collection action before submitting it to this Board will result in the dismissal of that claim as premature. *See Delcher Intercontinental*, GSBICA 13904-RATE, 97-1 BCA ¶ 28,698 (1996). LII did not file an administrative claim with GSA for a review of the collection action, and this Board, consequently, has no jurisdiction over its claim.

LII argues that the *Delcher Intercontinental* decision is not applicable in that there is only a legal issue as to whether the offsets at issue in this case were time-barred under 31 U.S.C. § 3726(d) (2000). There is no exception to the jurisdictional requirement that an administrative claim must first be submitted to GSA before it can be reviewed by this Board. We have no authority to make any findings concerning the merits of this claim unless and until the jurisdictional prerequisite of a review at GSA has been met.

Decision

The claim is DISMISSED.

H. CHUCK KULLBERG
Board Judge