



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 20, 2024

CBCA 8039-RELO

In the Matter of TOM K.

Tom K., Claimant.

Connie J. Rabel, Director, Travel Mission Area, Enterprise Solutions and Standards, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

KANG, Board Judge.

Claimant is a civilian employee of the Department of Defense (DOD) who was issued permanent change of station (PCS) orders. He challenges the determination by the Defense Finance and Accounting Service (DFAS) that the household goods (HHG) shipped during his relocation weighed in excess of the statutory and regulatory limits, resulting in a debt to the Government of \$2478.48. For the reasons discussed below, we deny the claim and find that the debt is valid.

Background

The Department of the Army issued PCS orders to claimant authorizing shipment of HHG from his home in Townsend, Maryland, to his new duty station in San Antonio, Texas. DOD contracted with a moving company to pack and transport claimant's HHG. Claimant's HHG were picked up in Maryland on June 4, 2021, and delivered in Texas on June 30, 2021.

On November 21, 2023, DFAS informed claimant that the move exceeded his HHG allowance by 2000 pounds and that, consequently, he owed the Government \$2478.48. The information provided to claimant included four certified weight tickets and a summary of the move from the United States Transportation Command, Defense Personal Property System.

These weight tickets were the basis on which DFAS assessed the excess weight debt to claimant.

The first and second weight tickets are dated June 7, 2021, three days after the HHG were picked up in Maryland. The weight tickets appear to be from a weight station owned or operated by the moving company and are both described as a “Certified Weight Ticket” created by a “METTLER TOLEDO DIGITAL SCALE.” The first weight ticket lists a time of 10:26 a.m. and a weight of 33,080 pounds with a net weight of 22,000 pounds. The second weight ticket lists a time of 9:02 p.m. and a weight of 55,080 pounds, again with a net weight of 22,000 pounds. Both weight tickets include a handwritten notation, “T = 116,” which appears to refer to the number of the trailer.

The third and fourth weight tickets are dated June 30, the date the HHG were delivered. The third weight ticket is from a “CERTIFIED AUTOMATIC TRUCK SCALE” at a Petro Travel Center in San Antonio, Texas. This weight ticket is signed by a “WEIGHMASTER OR WEIGHER” and stamped with a Texas Department of Agriculture seal. The weight ticket lists a time of 10:11 a.m. and a gross weight of 62,060 pounds. The fourth weight ticket is from a “CERTIFIED AUTOMATIC TRUCK SCALE” at a TA Travel Center in New Braunfels, Texas. This weight ticket also has a weighmaster signature and a Texas Department of Agriculture seal. The weight ticket lists a time of 6:06 p.m. and a gross weight of 39,320 pounds. The difference between the morning and evening weights shows a net weight of 22,740 pounds for the HHG. Both weight tickets identify a trailer number of 116.

Discussion

When an agency transfers an employee from one permanent duty station to another “in the interest of the Government,” the agency is responsible for the costs of transporting and storing the employee’s HHG “not in excess of 18,000 pounds net weight.” 5 U.S.C. § 5724(a)(1)–(2) (2018). The Joint Travel Regulations (JTR), which govern PCS moves for DOD civilian employees, apply the statutory ceiling on the net weight of HHG set forth in the Federal Travel Regulation (FTR): “The worldwide maximum weight of HHG that may be transported . . . is 18,000 pounds net weight for each civilian employee. For uncrated or van line shipments, a 2,000-pound allowance is added to the maximum weight allowance to cover packing materials.” JTR 054304 (June 2021); *see* 41 CFR 302-7.2 (2023) (FTR 302-7.2). The packing materials allowance raises the total net weight allowance to 20,000 pounds. The employee is responsible for reimbursing the Government for any excess charges due to an overweight shipment. *Id.*; *see Anthony W. Reed*, CBCA 6197-RELO, 19-1 BCA ¶ 37,230, at 181,218 (2018).

Certified weight tickets are a common and accepted means of proving the weight of a shipment of HHG. *E.g.*, *Steven W. Anderson*, GSBKA 16744-RELO, 06-1 BCA ¶ 33,199, at 164,571. Where the Government provides such tickets, “[t]he burden of proving that certified weights for the movement of household goods are incorrect is exceedingly heavy and rests on the claimant,” and “[a]gency determinations of net weight will be set aside only where a claimant can show clear and substantial evidence of error or fraud.” *Alan Poleszak*, GSBKA 16693-RELO, 05-2 BCA ¶ 33,066, at 163,888 (quoting *Robert G. Gindhart*, GSBKA 14288-RELO, 98-1 BCA ¶ 29,405, at 146,101 (1997)). Mere suspicion or speculation is not sufficient to meet the burden to prove error or fraud. *Sam Hankins*, CBCA 1309-RELO, 09-1 BCA ¶ 34,124, at 168,722-23.

Claimant asks the Board to find that the debt assessed to him based on the excess HHG weight is not valid. Claimant does not challenge the accuracy of the weights shown on the tickets but rather argues that discrepancies regarding these tickets show that they are not for his HHG. DFAS, which is the agency that assessed the debt to claimant, relies solely on the certified weight tickets to establish the validity of the debt.

With regard to the first and second weight tickets, claimant notes that they are dated June 7, 2021, which is three days after the HHG were picked up from his home.¹ Claimant argues that the unexplained difference between these dates show that the first and second weight tickets are not for his HHG.

With regard to the third and fourth weight tickets, claimant contends that they could not be for the truck that delivered his HHG based on the actual delivery times. The third weight ticket shows a time of 10:26 a.m. at a commercial weight station that is approximately 25 miles from claimant’s home in San Antonio. The fourth weight ticket shows a time of 6:06 p.m. at a commercial weight station that is approximately 38 miles from claimant’s home.

Claimant states, however, that the delivery truck with his HHG arrived at 9:03 a.m. In support of this timeline, claimant provided a printout of a digital photo of the moving company truck with a Maryland license plate, which he represents is the delivery truck as it

¹ Claimant notes that although the first weight ticket shows his printed name, it also shows a handwritten name that was scratched out and replaced by his handwritten name. Claimant suggests that the apparently erroneous handwritten name could reflect that the weight ticket was not for his HHG. In light of the correctly printed name and the identification of the same trailer number on all four weight tickets, the scratched out and corrected handwritten name does not adequately demonstrate that the first weight ticket was not for his HHG.

arrived in front of his home. Claimant also provided a screenshot of what he represents is the data for that photo, which show that it was taken at 9:03 a.m. Claimant contends that, given the travel times between his home and the two weight stations, the delivery personnel would have had only approximately five hours to unload and unpack his HHG, which he says would not have been sufficient based on the hot weather that day. Based on these discrepancies, claimant argues that the third and fourth weight tickets are not for his HHG.²

Although claimant identifies some inconsistencies in the record concerning the weight tickets and attempts to draw inferences from those inconsistencies, we find that these arguments do not rise above the level of suspicion or speculation. Claimant's arguments do not satisfy his heavy burden to show clear and substantial evidence of error or fraud that render the debt invalid. We address four points in response to claimant's arguments.

First, all four weight tickets show that the weight of the HHG was more than the 20,000 pound allowance, and while the third and fourth tickets show a higher weight of 22,740 pounds, claimant was only assessed a debt for the lower weight of 22,000 pounds from the first and second tickets. Any discrepancy between the tickets is, therefore, immaterial.

Second, the mere fact that the HHG were weighed in Maryland after the pickup date does not demonstrate that the first and second weight tickets were not for claimant's HHG. Claimant does not explain why weighing his HHG after the pickup date affects the validity of the tickets.

Third, even if we accepted claimant's representations regarding the time of delivery of the HHG in Texas, claimant does not show that it would have been impossible to unload and unpack his HHG within the available time. In this regard, claimant does not state how long the delivery and unpacking actually took nor does he state when the delivery personnel left.

Finally, all four weight tickets identified the same trailer number 116, and claimant provides no evidence that his HHG were transported in a different trailer. The photo provided by claimant of the truck that delivered his HHG does not show a trailer number and thus does not show that the weight tickets are for a different trailer.

² Claimant also states that "when our goods were delivered, there were other things on the truck that were not ours pushed to the back." Claim at 2. Claimant, however, does not submit any evidence to support this representation.

Decision

On this record, claimant has not met his burden of proving that the certified weight tickets on which the agency relies are not for his HHG and are not valid.³ The claim is denied.

Jonathan L. Kang
JONATHAN L. KANG
Board Judge

³ Claimant also argues that the debt should be found invalid because the moving company waited too long to invoice the Government for the work. Claimant does not point to anything in the record showing that the moving company was late in submitting its invoices for payment or that the Government was not obligated to pay the company. Although DFAS issued the debt notice to claimant more than two years after the delivery of his HHG, there is no indication that this delay was caused by the moving company rather than the Government.