



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 2, 2024

CBCA 7768-RELO

In the Matter of NATHAN F.

Nathan F., Claimant.

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

O'ROURKE, Board Judge.

Claimant challenges the accuracy of the weight measurements of his household goods (HHG) that resulted in a debt to the Government in the amount of \$2162.39. Claimant also seeks forgiveness of the debt based on financial hardship and alleges damages caused by the transportation service provider during the move. Although we find clear error in the initial weight ticket, we agree with the agency's reliance on the second and third weight tickets and affirm the debt. The Board has no authority to forgive claimant's debt or resolve allegations about the transportation service provider.

Background

In October 2020, the Department of Defense (the agency) issued claimant permanent change of station orders that authorized shipment of claimant's HHG from his home in Georgia to his new duty station in Kentucky. The agency hired Coleman American Moving Services, Inc. (Coleman), also referred to as Coleman Worldwide Moving Company, Inc., to pack claimant's HHG and transport it to Kentucky. The initial weight estimate of claimant's HHG was 18,000 pounds.

On March 11, 2021, claimant's HHG were loaded onto a moving truck, transported, weighed, and placed into non-temporary storage on March 22, 2021. They were initially

uncrated and then crated when they went into storage. In August 2021, claimant's HHG were removed from storage and delivered to his new home/duty station. The HHG were still in crates when they were delivered. The truck was not weighed before or after the HHG were delivered.

The agency paid Coleman directly for the shipment, and claimant was not aware that his HHG exceeded the maximum authorized weight until October 7, 2022—more than a year and a half later—when the agency notified claimant that he had a debt to the Government in the amount of \$2162.39 for the overage. Claimant asked the Board to review his claim and requested “debt forgiveness” due to the financial burden of the debt on his family. Claimant also disputed the accuracy of the weights, noting the substantial difference between the initial weight and the re-weigh. He also provided detailed information regarding Coleman's tardiness and the damage that Coleman's crew caused to claimant's property.¹

The Board issued two orders to the agency requesting additional information to support the agency's position, such as copies of any weight tickets and additional information about the agency's debt calculation. On November 28, 2023, the agency provided copies of three weight tickets. The first ticket has “Coleman American Moving Services, Inc.” printed at the top. Underneath that are a series of blank spaces filled in with claimant's name, a date of “3/11/20,” tractor number 37808, trailer number 63657, a gross weight of 62,920 lbs, a tare weight of 37,580 lbs, and a net weight of 25,340 lbs.²

The second and third weight tickets are from “Certified Automated Truck (CAT) Scale” at Loves Country Store in Nashville, Tennessee. The second ticket shows a date and time of 3-22-21, 07:56, and the tractor and trailer numbers are identified as 37808 and 63657. It also reflects a gross weight of 63,280 lbs. The third weight ticket shows the same date (3-22-21) and the same tractor and trailer numbers (37808 and 63657), but it reflects a time of

¹ According to claimant, Coleman arrived more than four hours late on the day of the move and backed the moving truck into the mailbox, damaging it. Coleman was not able to complete the one-day job due to its tardiness and promised to return early the next morning to finish but was many hours late again. Claimant also stated that members of the moving crew exploded a can of soup in the microwave and urinated all over the bathroom floor, the hallway, and the bedroom floor. Claimant said that he delayed his departure to clean up the property and fix the damage. The agency's report did not dispute these allegations and noted the delays due to the crew's tardiness. These complaints and violations do not bear on the case before the Board but were appropriately routed to the agency for action.

² All information on the first (Coleman) weight ticket is handwritten, except for the gross and tare weights. There is also a seal from the State of Georgia on the Coleman ticket, which provides a permit number and says “Certified Public Weigher.”

13:01, and a tare weight of 40,900 lbs. By subtracting the tare weight from the gross weight, the total net weight of claimant's HHG on March 22, 2021, was 22,380 pounds. Unlike the first weight ticket, the second and third weight tickets are completely automated. No hand-written information is on either of them.

Documentation in the record shows that claimant's HHG were shipped uncrated in the moving truck and that he had 505 lbs of professional gear. The agency calculated the weight of his HHG using the lesser net weight (22,380 pounds versus 25,340 pounds from the first ticket) and factoring in all allowances for packing materials, but nonetheless determined that claimant's HHG exceeded the authorized weight. The agency established a debt against claimant in the amount of \$2162.39, which claimant is repaying in monthly installments.

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 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) echo 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. Under no circumstances may the Government pay any expenses associated with excess weight." JTR 054304 (Feb. 2021); see 41 CFR 302-7.2 (2021) (FTR 302-7.2). The additional allowance raises the total limit of the gross weight to 20,000 pounds.

The case law on the issue of erroneous measurement of HHG weight is well settled. "In order to set aside the agency's determination, claimant must show clear and substantial evidence of error or fraud." *Michael M.*, CBCA 7644, 23-1 BCA ¶ 38,365, at 186,301 (citing *Ira A.C. Peets*, GSBCA 15294-RELO, 00-2 BCA ¶ 31,058, at 153,352). "[I]n the absence of proven error or fraud, the carrier's weight is deemed to be accurate. Mere suspicion is not sufficient." *Vincent A. Leduc*, CBCA 1166-RELO, 08-2 BCA ¶ 33,997, at 168,125 (citing *Charles E. Pixley*, GSBCA 16484-RELO, 05-1 BCA ¶ 32,887, at 162,933-34).

Only three decisions of the General Services Board of Contract Appeals (GSBCA), our predecessor board responsible for these matters, found that an employee met the burden of proving the certified weights for the movement of household goods were incorrect. *Vincent A. Leduc*, 08-2 BCA at 168,125. The most recent of the three GSBCA cases was *Michael V. Torretta*, GSBCA 16560-RELO, 05-1 BCA ¶ 32,928, which held that a disparity of more than 10,000 pounds between the initial estimate and the final measurement, coupled with a discrepancy on how two truck loads became three, proved that the measurement was unreliable. *Torretta*, 05-1 BCA at 163,107; see also *Robert G. Gindhart*, GSBCA 14288-

RELO, 98-1 BCA ¶ 29,405, at 146,101 (1997) (finding the weight of “waterlogged” HHG due to the movers’ negligence was not reliable); *Jerry Jolly*, GSBCA 14158-RELO, 98-1 BCA ¶ 29,518, at 146,401-02 (1997) (holding that an unsigned, handwritten modification adding over 6000 pounds to the documented weight was unreliable).

The Weight of Claimant’s HHG

Based on our review, we do not dispute that claimant’s HHG were over the weight limit. The only issue left to resolve is the overage amount. Determining the excess weight of an employee’s HHG shipment is a question of fact. We will not disturb the agency’s determination without evidence of clear error. *See Charles L. Eppright*, B-210713 (Mar. 28, 1984) (decision by Comptroller General, predecessor to GSBCA on these matters, finding no evidence in the record that there was clear error in the Government’s recorded weight). In the vast majority of cases, the weight of an employee’s HHG is established by certified weight tickets. *John C.*, CBCA 6905-RELO, 21-1 BCA ¶ 37,753, at 183,264 (2020). Here, the evidentiary record contained three weight tickets. We find no discrepancies in the second or third weight tickets. The first weight ticket, however, is dated March 11, 2020—one year prior to the move. This is clear error, but since the initial weight ticket was not utilized in the ultimate calculation, the error was inconsequential.

Unlike the first ticket, the second and third weight tickets contain all of the indicia of reliability: they are *completely* automated, contain the correct date with a difference of five hours between weights, and were generated by a certified independent truck scale. Although we are troubled by the agency’s failure to identify the error in the first ticket, the agency ultimately calculated claimant’s overage based on the second and third weight tickets, which resulted in a lower weight. Furthermore, setting aside the first weight ticket did not deprive claimant of a re-weigh. These circumstances demonstrate the utility of re-weighing HHG when the first weight exceeds the authorized weight.

Claimant understandably questions whether his HHG should have been weighed again upon delivery since they were crated at that point. Our review of the regulations did not identify any provision that requires HHG to be weighed *both* at origin and destination, even when HHG are loaded uncrated but unloaded from crates. In response to claimant’s concerns, we also reviewed the agency’s excess weight calculator sheet, which claimant included in his initial request to the Board. We find no errors in the calculation. For the foregoing reasons, we conclude that the agency’s reliance on the second and third tickets was proper, the calculation of the excess weight was consistent with regulations, and the establishment of the debt was proper.

Debt Forgiveness and Coleman's Poor Performance

With regard to claimant's request for debt forgiveness and his complaints about the moving company, the Board is without the authority to address either matter. "We do not have the authority . . . to waive [a] debt, or to review the agency's decision to deny [a] request for a waiver." *Evan F. Meltzer*, CBCA 1536-RELO, 09-2 BCA ¶ 34,272, at 169,317. Our "authority extends only to the determination of the validity of underlying claims involving reimbursement of travel and relocation expenses." *Holly W.*, CBCA 7030-RELO, 21-1 BCA ¶ 37,814, at 183,632 & n.2 (citing 31 U.S.C. § 3702). Furthermore, previous claimants have voiced similar complaints about transportation service providers, but the Board is not the proper forum to address such complaints. The Board "settle[s] claims by federal civilian employees for relocation expenses incident to transfers of official duty station." *Robert P. Kropik*, CBCA 2435-RELO, 11-2 BCA ¶ 34,852, at 171,446. "The Board cannot address or resolve allegations about improper and unethical behavior by the transportation companies hired by the agency for relocation of federal employees." *Michael M.*, 23-1 BCA at 186,301 (citing *John C.*, 21-1 BCA at 183,264).

Decision

The claim is denied.

Kathleen J. O'Rourke
KATHLEEN J. O'ROURKE
Board Judge