



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-256686.3

December 28, 1995

Caisson Forwarding Company, Inc.
1125 Gardner Road
Broadview, IL 60153

Attention: Kevin Spealman
Director of Claims and
Customer Service

Dear Mr. Spealman:

This is in response to your letter of August 8, 1995, requesting a second reconsideration of our decision B-256686, of November 7, 1994, in the matter of Caisson Forwarding Company, Inc., which decision we affirmed by letter of July 25, 1995. The result was the denial of your request for a refund of the funds set off for the loss of a lawn mower in the shipment of a service member's household goods.

In this reconsideration request, you state that our Office appears to have forgotten the main thrust of your firm's argument that the mower was found in nontemporary storage which proves that the item was never tendered to your firm for delivery to the member. You also state that the only reason we upheld the set off was because we found that you had not initiated a tracer action, which you have now shown was done.

The lack of a tracer was not the only reason given in our November 7, 1994, decision for your firm's liability for the mower. More important is the fact that Caisson's agent noted no exception to the inventory, which included the mower, at the time the shipment was picked up from storage, therefore shifting liability to Caisson for nondelivery. The issue of the timeliness of the tracer would have been moot if this action had been taken.

Since no exception was taken, by the time the mower was discovered, settlement of the member's claim had occurred. In accordance with Section 38 of the Tender of

Service agreement, after 30 days have elapsed, the service paid the member's claim and looked to Caisson for payment. As noted in the decision, when the mower was found, it became the property of Caisson. Accordingly, we see no basis to modify our prior holding.

You ask about the next level of appeal. Our Office has issued a decision and two reconsiderations of the matter. Requests for further consideration here would therefore appear to serve no useful purpose. If you wish, you may pursue the matter in the United States Court of Federal Claims or in an appropriate United States District Court.

Sincerely yours,

/s/Lowell Dodge
for Robert P. Murphy
General Counsel

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DIGEST

Prior decision holding that carrier who picked up household goods shipment from nontemporary storage and did not take exception on inventory regarding missing lawn mower, found 2½ months later in storage facility, was liable for loss is affirmed on reconsideration because even though carrier instituted tracer action, mower was not found until after claim had been settled with member and mower became property of carrier.