



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Tri-State Motor Transit Company

File: B-258344.2

Date: September 19, 1995

DIGEST

A carrier's claim for exclusive use charges based on the sealing of a vehicle is denied, even though the government bill of lading (GBL) contained notations referring to seals, when: the carrier issued the GBL without including seal numbers, seal ownership or data on whether the carrier or shipper applied the seals; neither the government nor the carrier could ascertain this information during audit; and the carrier did not present other evidence proving that the vehicle was sealed.

DECISION

Tri-State Motor Transit Company, requests that we reconsider our action of January 31, 1995, dismissing its claim for \$348 in additional charges for exclusive use of a dromedary container under government bill of lading (GBL) C-6,370,022. Previously, the General Services Administration (GSA) denied Tri-State's claim because there was no indication that the dromedary had been sealed. We sustain our prior action.

The shipment involved the movement of 69 pounds of detonating fuzes, Class C explosives, from Rochester, New York to the Naval Weapons Support Center in Crane, Indiana in August 1990. The GBL contained the notation: "DO NOT BREAK SEALS EXCEPT IN CASE OF EMERGENCY OR UPON PRIOR AUTHORITY OF THE CONSIGNEE OR CONSIGNOR . . . IF BROKEN FOR ANY REASON APPLY CARRIERS SEALS AS SOON AS POSSIBLE AND NOTIFY THE CONSIGNEE OR CONSIGNOR." Another notation stated that flame or heat producing tools can not be used to remove security devices. However, no seal number or other seal information was shown in the block provided on the GBL, and GSA was not able to verify that seals were applied.

In effect, Tri-State argues that these notations were sufficient evidence that seals were applied and that under the circumstances, the application of the seals is a request for exclusive use. It argues that one type of authorized security device does

not contain serial numbers; therefore, the absence of a serial number should not lead to a conclusion that no seal was applied.

We will deny a reconsideration request when it essentially restates arguments in the original request for review, or presents no evidence demonstrating an error in fact or law in the prior decision. See Eck Miller Transportation Corp., B-245385.2, May 20, 1992. The issue here is whether, as a matter of fact, Department of Defense (or Tri-State on its behalf) sealed the shipment. If the shipment had not been sealed, we do not reach the issue of whether the seal language quoted above constituted a request for exclusive use. In our initial decision, we rejected Tri-State's claim because there was insufficient evidence that the shipment had been sealed. The record still does not contain sufficient evidence that the shipment was sealed.

The notations involving seals/security devices are some evidence that the shipment was sealed. But, none of the parties (GSA, the Military Traffic Management Command or Tri-State) was able to identify the seal number or provide other seal-related information. Significantly, Tri-State issued the GBL without seal numbers and/or required information about seal owner and an indication whether Tri-State or the government applied the seals. See paragraph 29-14c of the Defense Traffic Management Regulation, DLAR 4500.3, July 31, 1986. Even if the Tri-State is correct that some seals do not involve numbers, it is still required that the name or initials of the responsible party be included in the "Applied By:" area of the GBL. It is the carrier's duty to insure that the GBL is correct in all material respects, and when its failure to do so results in an ambiguity that affects the charges owed to it, the carrier must prove the correctness of its charges. See Yellow Freight Systems, Inc., B-197298, Sept. 12, 1980, 80-2 CPD ¶ 193. In our view, the seal notations on the GBL do not overcome the ambiguity posed by the missing information. Perhaps Tri-State could have presented other evidence to support the fact that this shipment was sealed, but it would have avoided the problem if it had properly completed the GBL.

We sustain our prior action.

/s/Seymour Efros
for Robert P. Murphy
General Counsel