

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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September 22, 2000

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GSBCA 15374-RELO

In the Matter of HELENE MIKES

Helene Mikes, Anchorage, AK, Claimant.

Edgardo Aviles, Team Leader, Travel Team, Financial Services Division, United States Customs Service, Department of the Treasury, Indianapolis, IN, appearing for Department of the Treasury.

**DeGRAFF**, Board Judge.

In order for an employee to establish that a weight recorded on a Government bill of lading for a shipment of household goods is incorrect, the employee must provide clear and substantial evidence of error or fraud. In the absence of such evidence, the weight shown on the bill of lading establishes the weight of the shipment.

## Background

Helene Mikes is an employee of the Department of the Treasury. In early 1993, Treasury transferred Ms. Mikes to a new permanent duty station in Alaska and arranged to have her household goods packed, shipped, stored, and delivered to her home there. In June 1993, Treasury informed Ms. Mikes that her household goods weighed 22,110 pounds, and that it expected her to repay the amount that Treasury paid the moving company for charges associated with weight in excess of 18,000 pounds (\$2686.71). Treasury based its request upon a Government bill of lading (GBL) that showed Ms. Mikes's household goods weighed 22,110 pounds. The original weight ticket for the shipment shows a weight of 21,880 pounds, but as shown in a supplemental weight ticket, Ms. Mikes added approximately 300 pounds to the shipment after the original weight ticket was prepared, which is why the GBL shows a weight of 22,110 pounds.

In August 1993, Ms. Mikes told Treasury that her household goods were still in storage, that she doubted that they weighed more than 18,000 pounds, and that she had asked the moving company to re-weigh the goods when they were delivered to her. The moving company re-weighed Ms. Mikes's household goods on November 1, 1993, and found that they weighed 22,599 pounds. Although there are weight tickets supporting the 22,599 pounds, the moving company never billed Treasury for anything more than 22,110 pounds.

On February 11, 1999, Treasury wrote to Ms. Mikes and notified her that the amount she owes for charges associated with the excess weight of her household goods is past due and that it intends to begin collecting the debt by offset of her salary. Ms. Mikes asked Treasury to waive the debt and on April 28, 2000, Treasury decided not to grant Ms. Mikes' request. Ms. Mikes asks us to review Treasury's decision. She also asks whether Treasury has waited too long to begin collecting its debt by salary offset.

### Discussion

We have the authority to settle claims involving expenses incurred by civilian employees for relocation expenses, so we can review Treasury's decision to hold Ms. Mikes responsible for the charges associated with moving and storing more than 18,000 pounds of household goods. 31 U.S.C. § 3702 (1994 & Supp. IV 1998). We do not have the authority, however, to waive Ms. Mikes's debt or to review Treasury's decision to deny her request for a waiver. The authority to waive a debt belongs to the head of the agency from which the debt arose, and not to us. Michael J. Kunk, GSBCA 14721-RELO, 99-1 BCA ¶ 30,164 (1998). In addition, although we can determine whether claims are submitted to us within the time permitted by our authorizing statute, we do not have the authority to determine whether Treasury is conducting its collection activities within the time permitted by the statutes that authorize the collection of debts by offset. 5 U.S.C. § 5514; 31 U.S.C. §§ 3702, 3716.

This claim is governed by a federal statute that says when an agency transfers an employee from one permanent duty station to another in the interest of the Government, the Government is responsible for the costs of transporting and storing not more than 18,000 pounds net weight of the employee's household goods. 5 U.S.C. § 5724(a)(2). Because the Government cannot pay for moving any more than 18,000 pounds of household goods, the employee whose goods are moved is responsible for the costs attributable to any weight in excess of 18,000 pounds. 41 CFR 302-8.3(b)(5) (1993).

Ms. Mikes doubts that her household goods weighed in excess of 18,000 pounds because the moving company's estimator thought that her household goods did not exceed the 18,000 pound limit, and because there is a discrepancy between the GBL and the weight tickets as to the actual weight of her household goods. The moving company's estimate was, however, only an approximation or rough calculation of weight. The actual weight of Ms. Mikes's household goods is the 22,110 pounds shown on the GBL and the attached weight tickets, unless she can establish otherwise by providing us with clear and substantial evidence of error or fraud. 41 CFR 302-8.2(c); Douglas V. Smith, GSBCA 14655-RELO, 99-1 BCA ¶ 30,171 (1998). Treasury explained that the difference between the weight shown on the original weight ticket and the weight shown on the GBL is due to the fact that Ms. Mikes added a few hundred pounds to the shipment after the original weight ticket was prepared, so this does not cause us to question the weight shown on the GBL. Although there is a difference between the weight shown on the GBL and the weight shown on the weight tickets that were prepared when the goods were re-weighed, this fact alone does not provide us with clear and substantial evidence of error or fraud as to the weight shown on the GBL. No matter which weight is correct, however, Ms. Mikes's household goods exceeded 18,000 pounds. The moving company billed Treasury for the lower of the two weights, and Treasury appropriately used that weight to calculate the amount due from Ms. Mikes.

Decision

The claim is **DENIED**.

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MARTHA H. DeGRAFF  
Board Judge