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TRANS.

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-189460

DATE: December 27, 1977

MATTER OF: Trans Country Van Lines, Inc.

DIGEST:

Transportation audit function was transferred from this Office to GSA by Pub. L. No. 93-604, approved January 2, 1975; it was effective October 12, 1975, and included all transportation functions including settled claims but left GAO with appellate authority to review GSA settlements. Review requests must be received in GAO no later than 6 months from date of final dispositive action by GSA or 3 years from date of certain enumerated administrative actions, whichever is later. Carrier requesting review by GAO of GSA action after those dates is time-barred.

Trans Country Van Lines, Inc. (Trans Country), in its letter of June 6, 1977, requests a review by the Comptroller General of the final settlement action of September 11, 1974, taken by the former Transportation and Claims Division (TCD) of the General Accounting Office.

The record shows that Trans Country billed for and was paid \$3,320.60 on June 24, 1971, for transportation services rendered on a shipment from Petaluma, California, to Warrenton, Virginia, on Government bill of lading F-4243716, dated May 21, 1971. TCD determined in its audit of transportation charges that lower charges were available than those billed by Trans Country. Therefore, a Notice of Overcharge for \$1,843.80 was stated against Trans Country. Trans Country protested the overcharge and received a reply from TCD. However, because of the time limitation imposed by 49 U.S.C. 66 (1970), the overcharge of \$1,843.80 was collected by deduction from amounts otherwise due the carrier. Trans Country's claim for the amount deducted was disallowed by TCD on a settlement certificate dated May 2, 1974. On August 21, 1974, Trans Country protested as unwarranted the denial of its claim. TCD responded by letter of September 11, 1974, affirmed its disallowance, and suggested that Trans Country request a review by the Comptroller General of the United States of its final action on the claim. The letter of June 6, 1977, is the first correspondence received from Trans Country concerning the claim since August 24, 1974.

While Trans Country presents several reasons in support of its review request, we need not consider them, because, in our opinion, the claim is barred from our consideration by the time limitations on our review in the General Accounting Office Act of 1974, Pub. L. No. 93-604, approved January 2, 1975.

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B-189460

The transportation audit function was transferred from this Office to the General Services Administration (GSA) under the provisions of that Act. The entire transportation audit function, including the settlement of claims, was transferred to GSA, with the General Accounting Office retaining its oversight responsibilities as well as an appellate function enabling carriers to request the Comptroller General to review executive agency action on their claims. See Hearings on H.R. 12113 before a Subcomm. of the House Comm. on Government Operations, 93d Cong., 2d Sess. 32 (1974). The transfer was effective October 12, 1975 (B-163758, August 27, 1975), and on that date TCD's final action of September 11, 1974, became in effect the action of GSA.

The authority for this Office to review an action taken by GSA on transportation claims is found at 49 U.S.C. 66(b) (Supp. V, 1975), which provides that:

"Nothing in subsection (a) of this section hereof shall be deemed to prevent any carrier or forwarder from requesting the Comptroller General to review the action on his claim by the General Services Administration, or his designee. Such request shall be forever barred unless received in the General Accounting Office within six months (not including in time of war) from the date the action was taken or within the periods of limitation specified in the second proviso in subsection (a) of this section, whichever is later."

Pursuant to this statutory provision, we have promulgated regulations for the review of GSA transportation settlement actions. 4 C.F.R. 53 (1977). Specifically, 4 C.F.R. 53.2 (1977) provides that:

"Actions taken by the General Services Administration on a claim by a carrier or freight forwarder entitled under 49 U.S.C. 66 to be paid for transportation services prior to audit that have dispositive effect and constitute a settlement action as defined in sec. 53.1 will be reviewed by the Comptroller General, provided request for review of such action is made within six months (not including time of war) from the date such action is taken or within the periods of limitation specified in 49 U.S.C. 66(a), whichever is later."

The periods of limitation referred to in both the statute and regulation, specified in 49 U.S.C. 66(a), are: (1) accrual of the cause of action, (2) payment of the transportation charges, (3) subsequent refund for overpayment and (4) deduction. The applicable dates for

B-189460

determining the statutory barring period in this case is the date the transfer was effective, October 12, 1975, and the date of deduction, March 15, 1974. Trans Country had six months from the date of the transfer, or April 13, 1976, or three years from the date of deduction, or March 16, 1977, to file its request for review of the final action taken on September 21, 1974, on its claim. Since Trans Country's request for a review of that action by this Office was not received here until June 27, 1977, we are barred by the provisions of the statute from considering it.

R. H. K. 11/11/77
Deputy Comptroller General
of the United States