
Wiseway Transportation Services

Publish Date: 4/6/08

WWMF 100 Rules Tariff

Item 0230 Claims For Loss and Damage

Section 01

Effective Jan/01/08

The rules and regulations named in this item govern the processing of claims for loss, damage, injury, contamination, or delay to property transported or accepted for transportation, in interstate or foreign commerce.

A. FILING OF CLAIMS

1. Claims in Writing Required - a claim for loss, damage, injury, contamination, or delay to cargo will not be voluntarily paid by Carrier unless filed in writing, as provided in paragraph 2 below, with the receiving or delivering Carrier, or Carrier issuing the bill of lading, or Carrier on whose line the alleged loss, damage, injury, contamination, or delay occurred, within a period of nine (9) months from the date of delivery of the involved shipment, or as otherwise may be required by law, the terms of the bill of lading or other contract or carriage, and all tariff provisions applicable thereto.

2. Minimum Filing Requirements - a communication in writing from a claimant, filed with a proper Carrier within nine (9) months from the date of delivery of the involved shipment, and (a) containing facts sufficient to identify the shipment(s) of property involved, (b) asserting liability for alleged loss, damage, injury, contamination, or delay, and (c) making claim for the payment of a specified or determinable amount of money, will be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage. Loss or damage discovered after acceptance of shipment by Consignee shall be reported by Consignee to Carrier promptly upon discovery, and the contents and container shall be held for inspection by the Carrier. Apparent loss or damage shall be noted on bill of lading or delivery receipt at time of delivery.

3. Documents Not Constituting Claims - bad order reports, appraisal reports of damage, notations of shortage or damage or both, or freight bills, delivery receipts or other documents or inspection reports issued by Carriers or their inspection agencies, whether the extent of loss, contamination or damage is indicated in dollars and cents or otherwise, will, standing alone, not be considered by Carrier as sufficient to comply with the minimum claim filing requirements specified in paragraph 2 above.

4. Claims Filed For Uncertain Amounts - whenever a claim is presented against a proper Carrier for an uncertain amount, such as "\$100 more or less", the Carrier against whom such claim is filed will determine the condition of the shipment involved at the time of delivery by it, if it was delivered, and will ascertain as nearly as possible the extent, if any, of the loss, contamination or damage for which it may be responsible. Carrier will not, however, voluntarily pay a claim under such circumstances unless and until a formal claim in writing for a specified or determinable amount of money has been filed in accordance with the provisions of paragraph 2 above.

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5. Other Claims - if investigation of a claim develops that one or more other Carriers has been presented with a similar claim on the same shipment, the Carrier investigating such claim will communicate with each such other Carrier and, prior to any agreement entered into between or among them as to the proper disposition of such claim or claims, will notify all claimants of the receipt of conflicting or overlapping claims and require further substantiation, on the part of each claimant of his title to the property involved or his right with respect to such claim. The Carrier shall not be liable for loss or damage occurring after the property has been delivered to or received for by the Consignee or Shipper, or the authorized agent of either. When the Carrier is directed to unload or to deliver property (or render any service) at a place or places at which the Consignee or its agent is not present, the property shall be at the risk of the owner after unloading or delivery.

B. CLAIM ACKNOWLEDGMENT

1. Carrier will, upon receipt in writing of a proper claim in the manner and form described in these rules and regulations, acknowledge the receipt of such claim in writing to the claimant within 30 days after the date of its receipt by the Carrier unless the Carrier has paid or declined such claim in writing within 30 days of the receipt thereof. The Carrier will indicate in its acknowledgment to the claimant what, if any, additional documentary evidence or other pertinent information may be required by it further to process the claim as its preliminary examination of the claim, as filed, may have revealed.

2. The Carrier shall, at the time each claim is received, create a separate file and assign thereto a successive claim file number and note that number on all documents filed in support of the claim and all records and correspondence with respect to the claim, including the written acknowledgment of receipt. At the time such claim is received, the Carrier shall cause the date of receipt to be recorded on the face of the claim document, and the date of receipt shall also appear in the Carrier's written acknowledgment of receipt to the claimant. The Carrier shall also cause the claim file number to be noted on the shipping order, if in its possession, and the delivery receipt, if any, covering such shipment, unless the Carrier has established an orderly and consistent internal procedure for assuring (1) that all information contained in shipping orders, delivery receipts, tally sheets, and all other pertinent records made with respect to the transportation of the shipment on which claim is made, is available for examination upon receipt of a claim; (2) that all such records and documents (or true and complete reproductions thereof) are in fact examined in the course of the investigation of the claim (and an appropriate record is made that such examination has in fact taken place); and (3) that such procedures prevent the duplicate or otherwise unlawful payment of claims.

C. INVESTIGATION OF CLAIMS

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1. Prompt Investigation Required - each claim filed against a Carrier in the manner prescribed in this tariff will be promptly and thoroughly investigated if investigation has not already been made prior to receipt of the claim.
2. Supporting Documents - when necessary as part of an investigation, each claim will be supported by the original bill of lading, evidence of the freight charges, if any, and either the original invoice, a photographic copy of the original invoice, an exact copy thereof, or an extract made therefrom, certified by the claimant to be true and correct with respect to the property and value involved in the claim; or certification of prices or values, with trade or other discounts, allowance, or deductions of any nature whatsoever and the terms thereof, or depreciation reflected thereon; provided, however, that where the property involved in a claim has not been invoiced to the Consignee shown on the bill of lading or where an invoice does not show price or value, or where the property involved has not been sold, or where the property has been transferred at bookkeeping values only, the Carrier will, before voluntarily paying a claim thereon, require the claimant to establish the wholesale to destination market value in the quantity shipped, transported, or involved and to certify the correctness thereof in writing. Carrier may require certified or sworn statement of claim.
3. Verification of Loss - when an asserted claim for loss of an entire package or an entire shipment cannot be otherwise authenticated upon investigation, the Carrier shall obtain from the Consignee of the shipment involved a certified statement in writing that the property for which the claim is filed has not been received from any other source.

D. DISPOSITION OF CLAIM

Upon receipt of a written claim for loss, damage, injury, contamination, or delay to property transported, Carrier will pay, decline, or make a firm compromise settlement offer in writing to the claimant within 120 days after receipt of the claim by the Carrier, provided, however, that, if the claim cannot be processed and disposed of within 120 days after the receipt thereof, the Carrier will at that time and at the expiration of each succeeding 30-day period while the claim remains pending, advise the claimant in writing of the status of the claim and the reason for the delay in making final disposition thereof, and it will retain a copy of such advise to the claimant in its claim file thereon. Deductions of loss and damage claims from freight charges are unlawful and are prohibited.

E. STATUTE OF LIMITATIONS

The time limit for filing any action at law against Carrier for loss and damage claims shall be two (2) years and one(1) day from the date of Carrier's written disallowance of the claim or any portion thereof.

F. PROCESSING OF SALVAGE

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1. Whenever property transported by Carrier is damaged or contaminated or alleged to be damaged or contaminated and is, as a consequence thereof, not delivered or is rejected or refused upon tender thereof to the owner, Consignee, or person entitled to receive such property, the Carrier, after giving due notice, whenever practicable to do so, to the owner and other parties that may have an interest therein, and unless advised to the contrary after giving such notice, will undertake to sell or dispose of such property of the property in a manner that will fairly and equally protect the best interests of all persons having an interest therein. The Carrier will make an itemized record sufficient to identify the property involved so as to be able to correlate it to the shipment or transportation involved, and claim, if any, filed thereon. The Carrier also will assign to each lot of such property a successive lot number and note that lot number on its record of shipment and claim, if any claim is filed thereon.

2. Whenever disposition of salvage property is made directly to an agent or employee of a Carrier or through a salvage agent or company in which the Carrier or one or more of its directors, officers, or managers has any interest, financial or otherwise, that Carrier's salvage records will fully reflect the particulars of each such transaction or relationship, or both, as the case may be. Upon receipt of a claim on a shipment on which salvage has been processed in the manner hereinbefore prescribed, the Carrier will record in its claim file thereon the lot number assigned, the amount of money recovered, if any, from the disposition of such property, and the date of transmittal of such money to the person or persons lawfully entitled to receive the same.
