

Railroad Retirement Board

§ 362.12

In order to complete such investigation, the Deputy General Counsel or his designee may request the submission of information in addition to that described in § 362.7 of this part.

(45 U.S.C. 231f(b)(5))

[45 FR 57709, Aug. 29, 1980, as amended at 48 FR 51448, Nov. 9, 1983]

§ 362.9 Fraudulent claims.

Claims are not payable for items fraudulently claimed. When investigation discloses that an employee, an agent of the employee, or a survivor of the employee has intentionally misrepresented an item claimed, as to cost, condition, cost of repair or other significant information, the claim as to that item will be disallowed in its entirety even though some actual loss or damage may have been sustained. However, if the remainder of the claim is proper it will be paid as to other items. This section does not preclude appropriate prosecution and disciplinary action if warranted.

§ 362.10 Principal types of claims allowable.

(a) In general, a claim may be allowed only for tangible personal property of a type and quantity that was, from the Board's perspective, reasonable, useful, or proper for the employee to possess under the circumstances at the time of the loss or damage. Any questions in this regard are to be resolved by the Deputy General Counsel.

(b) Claims that will ordinarily be allowed include, but are not limited to, cases in which the loss or damage occurred:

- (1) In a common or natural disaster;
- (2) When the property was subjected to extraordinary risks in the performance of duty or efforts to save human life or property of the United States Government;
- (3) When the property was used for the benefit of the Board at the direction, or with the consent, of a supervisor.

(45 U.S.C. 231f(b)(5))

[45 FR 57709, Aug. 29, 1980, as amended at 48 FR 51448, Nov. 9, 1983]

§ 362.11 Principal types of claims not allowable.

(a) Claims will be disallowed when:

(1) The personal property was lost, stolen or damaged prior to August 31, 1964;

(2) The loss or damage totals less than \$5 or, to the extent of the excess, more than the maximum amount provided in section 241(b)(1) of title 31 of the U.S. Code;

(3) The loss or damage was caused, at least in part, by the negligence of the employee or his agent;

(4) The personal property was acquired, possessed or transported in violation of law or regulation;

(5) The personal property was brought into Board offices for temporary storage in anticipation of delivery to another person or removal to another location;

(6) The personal property lost or damaged was food-stuffs or furniture;

(b) Claims which will ordinarily not be allowed include, but are not limited to, claims for:

(1) Money or currency, except when lost in a common or natural disaster;

(2) Articles of extraordinary value;

(3) Articles being worn (unless allowable under § 362.10);

(4) Intangible property, such as bank books, checks, notes, stock certificates, money orders or travelers' checks;

(5) Property owned by the United States, unless the employee is financially responsible for it to another U.S. Government agency;

(6) Losses of insurers or subrogees and those losses recoverable from an insurer or carrier;

(7) Losses or damages sustained in quarters not assigned or otherwise provided in kind by the Board;

(8) Losses recoverable or recovered pursuant to contract;

(9) Loss or damage to any vehicle used for transportation or in transportation (unless allowable under § 362.10).

§ 362.12 Computation of amount of reimbursement.

(a) The amount awarded with regard to any item of personal property will not exceed its depreciated replacement cost at the time of loss. Unless proven to be otherwise, replacement cost will

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be based on the price paid in cash for the property or, if not acquired by purchase or exchange, the value at the time of acquisition. The amount normally payable on property damaged beyond economical repair is found by determining its depreciated value immediately before it was damaged or lost, less any salvage value. If the cost of repair is less than the depreciated value of the property, then it is economically repairable, and the cost of repair is the amount payable.

(b) Depreciation in value of an item of personal property is determined by considering the type of article involved, its cost, condition when lost or damaged beyond economical repair, and the time elapsed between the date of acquisition and the date of accrual of the claim.

(c) Allowance for articles acquired by barter will not exceed the cost of the articles tendered in barter.

§ 362.13 Property recovered after payment of claim.

When previously lost or stolen property is recovered by the employee after allowance of a claim by the Board, the employee shall return the amount of reimbursement.

§ 362.14 Finality of settlement.

Notwithstanding any other provision of law, settlement of a claim under the Act and this part is final and conclusive.

§ 362.15 Agent's or attorney's fee.

Under the terms of the Act, no more than 10 percent of the amount paid in settlement of a claim submitted and settled under this part may be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim, any contract to the contrary notwithstanding.

PART 363—GARNISHMENT OF REMUNERATION OF BOARD PERSONNEL

Sec.

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AUTHORITY: 15 U.S.C. 1673(b)(2); 42 U.S.C. 659, 661, and 662; and 45 U.S.C. 231f(b)(5) and 362(1).

SOURCE: 45 FR 28315, Apr. 29, 1980, unless otherwise noted.

§ 363.1 Authorization for garnishment of remuneration for employment paid by the Board.

(a) Remuneration for employment paid or payable by the Board is subject, in like manner and to the same extent as if the Board were a private person, to legal process brought for the enforcement of legal obligations to provide child support or to make alimony payments.

(b) Remuneration for employment includes compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes, but is not limited to, severance pay, sick pay, and incentive pay, but does not include awards for making suggestions.

(c) Remuneration for employment does not include:

(1) Amounts required by law to be deducted, including but not limited to Federal employment taxes and civil service retirement contributions;

(2) Amounts which are deducted as health insurance premiums;

(3) Amounts which are deducted as premiums for regular life insurance coverage; and

(4) Amounts which are properly withheld for Federal, state, or local income tax purposes, if the withholding of such amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual concerned claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1954 may be permitted only when such individual presents evidence of a tax obligation which supports the additional withholding).

§ 363.2 Definitions.

(a) *Child support* means periodic payments of funds for the support and maintenance of a child or children;