

EAST AFR. PROT.

C. O.
2483

REC'D
REGD 22 JAN 13

2488

Woj

E. Africa Corpn.
Lt.

1913

21 Jan.

Last previous Paper.

Refund of Railway Charges.

Submit claim to refund of £52,79. being the diff. bet. the rate as charged on Railway Risk & that on "Owners Risk" in conn. with certain consignments in East Afr. in May 1912. Enclosed comes with Ref. form, who refuse claim.

Mrs. Bottomley

Letter to British East Africa Corporation
of the Director of Colonial Regulation
212 and 213

23.1.13

As the Chief Secy's letter might have been more definite in stating that what was the proper channels, I think that we might send copy of L's case to Genl. for report - & inf. the Corp. that this has been done.

atms
H. S. R.

23/1

Copy comes in 73 cases
Journals 25 March 1923

20/1
9323

British East Africa Corporation, Limited. C. O.

2488

REC'D
JAN 22 1913

SECRETARY

F. T. PRESSLAND.

Representatives in Manchester

BRITISH COTTON GROWING ASSOCIATION,
15, CROSS STREET.

TELEPHONE: LONDON WALL 8176

TELEGRAMS: ~~TAAL~~ LONDON "TAAL AVE. LONDON."CABLES: INCREASE, LONDON.
CODE - A.B.C. 5TH EDITIONAND AT
MOMBASA.

BRITISH EAST AFRICA PROTECTORATE.

96, GRESHAM HOUSE,

LONDON, January 21st, 1913.

In your reply please refer
to No. E.A. 965.

The Under Secretary of State,
Colonial Office,
Downing Street, S.W.

Sir,

CLAIM FOR REFUND - UGANDA RLY.

We have the honour to attach copy of correspondence between our Acting General Manager at Mombasa, and H.E. the Acting Governor of British East Africa, as follows -

1. Sept. 6th. B.E.A. Corp. Ltd. to Government.
2. Nov. 13th. reply of Chief Secretary.
3. Nov. 18th. B.E.A. Corp. Ltd. to Government.
4. Nov. 23rd. further reply of Chief Secretary.

Our claim is for refund of Rs. 785.77 equal £52. 7. 9. being difference between the Government rail rate as charged on the "Railway Risk" rate and the lower rate which the public is entitled to pay under the "Owners risk" rates quoted by the railway.

Our Mombasa letter of Sept. 6th. sets out how the claim arose. We desire especially to refer you to paragraph 3B of that letter, in which we assert the fact, which is not denied, that after accepting the traffic and handing us way bills expressing the rates, the railway department subsequently booked up the traffic to our ledger account and exacted payment at higher rates. We also refer you to paragraphs 6A and B and para. 7, which set out the practice that had been followed by the railway in its dealings with us for several years past. The

railway changed its goods booking clerk, and the new man changed the practice without notice to ourselves.

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The Chief Secretary's reply of Nov. 13th. 1912 does not traverse our assertion of moral right to the refund and relied upon the admission of our men to execute the "Risk Notes" *at the time of handling traffic, and accepting way bills,* in which omission they were following the practice accepted by the railway during past years. We venture to urge that if our men were to blame, the railway officials are not free from a charge of contributory negligence.

In now availing ourselves of the permission granted by His Excellency, in the Chief Secretary's letter of Nov. 23rd. to appeal to the Secretary of State, we think that we may appropriately mention that our firm is by far the largest customer of the Uganda Railway. We pay not less than £40,000 (forty thousand pounds) per annum for our goods and passenger traffic. We endeavour to recognise the many difficulties under which the railway traffic is carried on, and we refrain to the utmost from complaints upon the multiplicity of delays and losses which we have to sustain, believing as we do, that the railway officials are doing their very best in the interests of the public with the facilities at their disposal. Our losses through delay to and exposure of our cotton etc. due to inadequacy of rolling stock (although the coming traffic was foreseen and urged by us upon the Government two years ago) have cost us several thousands of pounds in the last twelve months. But in this instance of the railway revenue compelling us to pay, through an error of their own staff, a sum entirely extra to the authorised public charge for the desired carriage of our goods, we do desire to submit to the Secretary of State that an injustice has been done and will continue until the refund is made to us.

We have the honour to be, Sir,

Your obedient Servants,

BRITISH EAST AFRICA CORPORATION LIMITED.

Edmund Beaman
Managing Director.

COPY.

Mombasa.

6th. Sept.

1912.

C. O.

2483

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22 JAN 13

His Excellency,
The Acting Governor,
Nairobi.

Sir,

With the cognisance of the Traffic Manager of the Uganda Railway I beg to bring to the notice of your Excellency the following facts for your Excellency's consideration.

1. This Corporation, by an arrangement with the Uganda Railway, pay all freights on the Railway, by Ledger Account, and for which arrangement we provide a Bankers guarantee to the Railway to the extent of Rs. 50,000/-, all freights both to and from Mombasa and Kilindini being debited to this account and paid by us on receipt of the Railway statement at end of each month.

2. During the months of March and April last, several consignments of merchandise were despatched by us from Kilindini pier to Nairobi, for details of which we beg to refer you to statement attached.

3A The Railway staff at Kilindini accepted these consignments at various rates according to the classification and tariff, handing to our representative the waybills made out for these amounts.

B. It was subsequently discovered that errors in rates charged to us had been made and the items were altered by the railway in their Ledger account, the difference between the rate at time of consignment and the rate as altered in Ledger account, being charged to and paid for by us.

C. The statement attached hereto will show in detail the differences referred to and which total to the sum of Rs. 785.77 (rupees seven hundred and eighty five and cents seventy seven).

4. A. We have taken this matter up with the Traffic Manager stating a claim for the difference and applying for a refund of the above mentioned amount.

B. We have stated in furtherance of our claim that the differences have arisen owing to a change of system adopted by the railway in their Kilindini staff and particularly to a change of method on their part in dealing with Owners Risk Notes.

5. We would state that the amount for which we request refund is comprised of the difference between the rate charged for goods railed under Owners Risk and goods railed under Railway Risk.

6. A. It had been the invariable railway custom, when booking Goods at Kilindini, for the Railway booking clerk to fill in the Rates on the waybill and make out the waybill and also to attach to the waybill, in accordance with the requirements of the Railway, the Owners Risk Note.

B. In the cases upon which we base our claim and ask refund, the rates were subsequently altered by the Railway, to Railway Risk, owing to no Owners Risk Note being attached by us to the way bill.

7. In support of our claim we would point out that it has been the invariable practice of this Corporation never to consign goods under the rate provided by the Railway, whereby they assume responsibility (Railway Risk). We have our own floating policy of insurance and would therefore not require to avail ourselves of the Railway Risk. Also that there is justification for our claim inasmuch as the differences charged to us are due to change of

custom and routine on the part of the Railway and that invariable custom constitutes a certain moral responsibility and that it would not be unreasonable for us, on our part, to expect some prompt notice to be given to us, when several alterations were being made, that were in fact found to be affecting our consignments and which consignments would not have been allowed by us to go forward at Railway Risk.

Owing to the fact that we run a Ledger account with the Railway the matter as regards the item of Rs. 269.33 referring to a consignment on the 7th. March in the schedule, was not brought to our notice until receipt by us of the Railway freight account for the month of March, and which account was received from the Railway on the 30th. April or 7 weeks after the goods were consigned; The Railway having given us no indication in the meantime of any alteration. The Traffic Manager in his letter to us intimating that he was not in a position to sanction the refund conveys his regret.

In bringing the foregoing to your Excellency's consideration, I would further point out in justification of our claim that immediately the matter came to our notice and when it was apparent to us that such mistakes might occur again, we signed a General Risk Note with the Railway, precluding the possibility of such a position arising in the future.

In conclusion I would state that in our opinion we have a bona fide claim for refund of the sum of Rs. 786.77

I have the honour to be, Sir,

Your obedient servant,

FOR THE BRITISH EAST AFRICA CORPORATION LTD.

(Sgd) James I. Cox.

Manager.

Enclo.

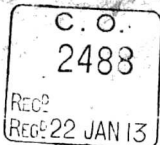
The Secretariat,

Nairobi.

East Africa Protectorate.

November 13th, 1912.

No. S. 3860.



Gentlemen,

I have the honour to inform you with reference to your letter of the 6th September that the whole matter of the refund of the difference between the Railway Risk rate and the Owners Risk rate on certain consignments made by your firm has received His Excellency's careful consideration.

In view of the failure of your representatives to execute the necessary Risk Notes I am to state that, although the Government would wish to meet you in such matters as far as possible, the concession of the point at issue would create a dangerous precedent, which would in all probability be abused by others, and I regret therefore, that your application cannot be entertained.

I have the honour to be, Gentlemen,

Your most obedient servant,

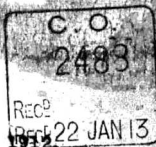
(Sgd) H. J. Monsen.

For Chief Secretary to the Government.

Messrs. The British East Africa Corporation Ltd.,

Mombasa.

COPY



18th November, 1915

The Chief Secretary to the Government,
Secretariat,
NAIROBI.

Sir,

We have the honour to acknowledge receipt of your letter No. S. 2260 P. of 13th inst., regarding the matter of our Railway claim. We note with regret, that our application cannot be entertained, but we understand from your letter under reply that the justness of our application for a refund is recognised by Government.

With further reference to the points detailed in our letter of the 5th September last, we would still state that, in our opinion, we have a bona fide right to claim a refund, and we suggest, in relation to your remarks regarding the failure of our representative to execute the necessary risk note, that in this connection there was contributory negligence on the part of the Railway staff.

We beg again to submit this matter for his Excellency's consideration, and we would ask, in the event of a decision still being in the negative, that we have your permission to refer this matter home.

We have the honour to be, Sir,

Your obedient servants,

The Secretariat,

Nairobi,

East Africa Protectorate.

November 23rd. 1912.

B. 3866.

Gentlemen,

With reference to your letter of the 18th instant, regarding the refund of the difference between the Railway Risk rate and the General Risk rate on certain consignments made by your firm, as desired by His Excellency the Governor to point out that you are debited with the higher rate in consequence of your omission to perform an act which, as you were aware, was a necessary condition precedent on the grant of the lower rate. The fact that it is your usual custom to perform such an act cannot be pleaded in mitigation of specific omissions.

For these reasons His Excellency is not disposed to reconsider the opinion which was communicated to you in my letter of the 18th instant, but he observes that, if you are dissatisfied with his decision, you are at liberty to submit the matter to the Secretary of State for the Colonies through the proper channels.

I have the honour to be, Gentlemen,

Your most obedient servant,

(sgd) W. J. Monson.

for Chief Secretary to the Government.

Messrs. The B. E. A. Corporation Ltd.,

Mogbasa.

Misc 2488/1913

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~~As~~

28 Janry. 1913

Sir,

DRAFT

The Managing Director
British East Africa Corporation, Ltd.

I am etc. to acknowledge

E.A. 965

the receipt of your letter of

the 21st of Janry and to inform

you that relating to a

claim for a refund

of the difference between

the "Railway Risk" rate

and "Owners Risk" rate

charged on certain con-

signments of goods by

the Uganda Railway,

and to inform you

that a copy of the

MINUTE

Mr. Harper 24 Janry

Mr. Bottomley 24 fs.

Sir G. Fiddes.

Sir H. Just.

Sir J. Anderson.

Lord Emmott.

Mr. Harcourt.

Copy 4473 can 28 Jan.

2 dfts

comms. has been

sent to the Gov

& the C.A.P. for

his report on the

subject

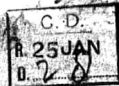
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(Signed) (E.H.)

Miss 2488/1913

102A

EAP



JH

28 January 1913

Sir,

I have the honor to transmit to you the accompanying copy of a report on the subject of the "Railway Risk" rate and "Traders Risk" rate charged on certain consignments of goods by the Uganda Railway and to request that you will furnish me with

Cons d 9323

Draft

E.A.P. No. 43

for Belfield

Feb 24, 1913

Dr. Bottomley 25/13

E.A.P. No. 43 for
(all enclosed)

To Mr. Bottomley
(all enclosed)

24/13

*a report on the
matter.*

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