

## CLAIM OF ERNEST K. IWASAKI

[No. 146-35-30. Decided January 19, 1951]

## FINDINGS OF FACT

1. This claim, in the amount of \$1,273.25, was received by the Attorney General on November 5, 1948. The claim involved loss of or damage to personal property including household equipment, books, phonograph records, and canvas; charges for repairs on a 1938 Plymouth sedan car; storage charges for the Plymouth sedan; charges for transporting property to a place of storage; charges for transporting an ice box to the relocation center; and expenses incurred in traveling from the relocation center to California and return for the purpose of taking bar examinations and being admitted to the bar. By an affidavit dated February 17, 1950, claimant voluntarily waived his claim for damages to the Plymouth sedan and for traveling expenses, thus reducing the claim to \$873.25. Claimant was the owner of the property involved in his claim at the time of loss. Claimant was born in Hawaii on May 19, 1903, of Japanese parents. Claimant was married at the time of evacuation, his wife, Haruco Iwasaki, being born of Japanese parents. At no time since December 7, 1941, has either claimant or his wife gone to Japan. On December 7, 1941, and for some time prior thereto, claimant resided at 1119 Fremont Avenue, South Pasadena, California, and was living at that address when he and his wife were evacuated on May 14, 1942, under military orders pursuant to Executive Order No. 9066, dated February 19, 1942, and sent to Tulare Assembly Center, California, and thence to Gila River Relocation Center, Arizona.

2. He made arrangements to store his household property, books, and records in a garage on the lot of a house occupied by an old friend of his wife. He acted reasonably in doing so. When claimant returned to California, he found that rats, insects, and rain had damaged beyond repair and beyond use a very large part of his property.

3. Claimant found that certain other property stored could be salvaged and used after repair and, therefore, had it repaired at his own cost. The amount so spent was reasonable.

4. Claimant found that some of the property stored was missing on his return and he never recovered any part of it.

5. Just before his evacuation, he hired a transfer company to take to the garage the property to be stored, paying the transfer company \$15 for carriage.

6. Claimant's automobile was a 1938 Plymouth 4-door sedan car which he stored in another garage owned by another individual, paying the owner \$3 a month as rental for the 41 months in which the car was in storage and during which claimant was in the relocation center. He acted reasonably in doing so. The value of such a car in average condition in May 1942 was between \$470 and \$515.

7. While at the Gila River Relocation Center, Arizona, the claimant had his refrigerator shipped to him by the Southern Pacific Railway and paid the freight from Los Angeles in May 1944. He needed the refrigerator because of the birth of his second daughter.

8. The fair value of property stored and damaged beyond repair was \$479; the cost of repair of property stored and salvaged was \$39.50; the property stored and later found missing was \$87; the cost of carriage of his household property to the place of storage was \$15; the charges for storage of his car were \$123; and the freight on shipment of the refrigerator to the relocation center was \$24.75; none of which was compensated for by insurance or otherwise.

## REASONS FOR DECISION

Claimant was married and eligible to claim. This claim includes all interest of the marital community in the subject property, since the wife also is eligible to claim but has made no claim; and the husband having the power of management and control of such property under California law, may claim for the whole. *Tokutaro Hata, ante*, p. 21.

On the facts found in paragraph 2, the loss is allowable. It lies within the express words of the Act which allows compensation "for damage to or loss of \* \* \* personal property." Any measure of damage to the claimant's property which was a "reasonable and natural consequence" of his evacuation or exclusion is allowable and when that "damage" goes to the extent of rendering the thing damaged completely useless, it has reached the point of "loss." All this is self-evident. The facts constitute a complex of circumstances and include not only the physical facts but the climate of opinion in which persons of Japanese ancestry then moved, with all its attendant fears, doubts, hysteria, and confusion. In such circumstances, the fact that claimant stored in the garage of a schoolteacher who was not a Japanese and who had once taught in the same school as his wife was "reasonable," notwithstanding the existence at the time of Government warehouses where safer storage was available, of which claimant might or should have known.

On the facts found in paragraph 3, the costs of repairs was allowable under *Kinjiro and Take Nagamine, ante*, p. 78, since the cost in the instant case does not transcend the limitations there laid down.

On the facts found in paragraph 4, the loss is allowable. *Akiko Yagi, ante*, p. 11.

On the facts found in paragraph 5, the loss was allowable. *Kinjiro and Take Nagamine, supra*. The situation considered in *Yoshiharu S. Katagihara, ante*, p. 99, is distinguishable on its facts in respect of the drayage charges

to a farm house 40 miles from San Francisco, which were denied. The rural situation was different from the urban situation because persons living in rural areas were "encouraged to concentrate the bulk of their goods \* \* \* in depositories of their own choice." *Report of the Federal Reserve Bank of San Francisco \* \* \* on its Operations in connection with Evacuation Operation \* \* \* during 1942*, p. 14. In *Yoshiharu S. Katagihara, supra*, the claimant was a well-educated person who had heard rumors about storage and had interposed no objections to the factual inferences drawn against him in the tentative adjudication although represented by counsel. Since that case must be confined to its own peculiar facts, it raises no bar to an unprejudiced consideration of the whole question of the reasonableness of the claimant's action here. The reasonableness of claimant's action must be the test followed and not the existence or nonexistence of facilities either of drayage or storage at the time of claimant's act of storage. All the circumstances must be considered and this having been done, and the claimant's act in hiring drayage found reasonable, the claim must be allowed.

On the facts found in paragraph 6, the loss on storage is allowable since the value of the car supports the reasonableness of claimant's act. The case falls, therefore, within the limitations of the doctrine laid down in *Frank Kiyoshi Oshima, ante*, p. 24.

On the facts found in paragraph 7, the expense cannot be regarded as a loss falling within the ambit of the Act and is therefore not allowable. *Mary Sogawa, ante*, p. 126.