

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeals of --)
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Dennis Berlin, d/b/a Spectro Sort and as)
Spectro Sort Manufacturing Company) ASBCA Nos. 51919, 51932, 52400
)
Under Contract No. F04606-93-D-0458)

APPEARANCE FOR THE APPELLANT: Mr. Dennis Berlin

APPEARANCES FOR THE GOVERNMENT: COL Alexander W. Purdue, USAF
Chief Trial Attorney
LT COL Scott W. Singer, USAF
CAPT Sky W. Smith, USAF
Trial Attorneys

OPINION BY ADMINISTRATIVE JUDGE FREEMAN
ON MOTION FOR RECONSIDERATION

Dennis Berlin moves for reconsideration of our decision of 7 December 2001 on these appeals. The stated ground for reconsideration of our decision on the default termination (ASBCA No. 51919) and demand for return of unliquidated progress payments (ASBCA No. 51932) is that the termination “directly resulted from the Government’s grossly defective design specifications” (app. motion at 2). The stated grounds for reconsideration of the inventory and storage claims (ASBCA No. 52400) are that the inventory effort “went beyond the requirements of the contract” and that “the documented cost of storage greatly exceeds the awarded amount of \$3,300” (app. motion at 3).

Our decision of 7 December 2001 fully considered these same contentions and arguments. In that decision we found no credible evidence that defective drawings caused Mr. Berlin’s default on the delivery schedule for which he was terminated. *See Dennis Berlin, d/b/a Spectro Sort and as Spectro Sort Manufacturing Company*, ASBCA Nos. 51919, 51932, 52400, 02-1 BCA ¶ 31,675 at 156,532-34 (Findings 5-6, 8-19). In that decision we also found that the inventory of the contract material on hand at the termination was required by the Progress Payments clause of the contract, and that the reasonable storage cost for that material was proven only in the amount of \$3,300. *Id.* at 156,535 (Finding 29) and 156,537. The motion presents no facts or arguments on any of these appeals that were not considered in our decision of 7 December 2001, and we are not persuaded by the motion that there was any error in that decision.

The motion is denied.

Dated: 13 May 2002

MONROE E. FREEMAN, JR.
Administrative Judge
Armed Services Board
of Contract Appeals

I concur

I concur

MARK N. STEMLER
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

EUNICE W. THOMAS
Administrative Judge
Vice Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA Nos. 51919, 51932, 52400, Appeals of Dennis Berlin, d/b/a Spectro Sort and as Spectro Sort Manufacturing Company, rendered in conformance with the Board's Charter.

Dated:

EDWARD S. ADAMKEWICZ
Recorder, Armed Services
Board of Contract Appeals