

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Delfasco LLC) ASBCA No. 59153
)
Under Contract No. W52P1J-12-C-0034)

APPEARANCES FOR THE APPELLANT: David S. Cohen, Esq.
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Washington, DC

APPEARANCES FOR THE GOVERNMENT: Raymond M. Saunders, Esq.
Army Chief Trial Attorney
CPT Tyler L. Davidson, JA
Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE MCILMAIL ON THE
GOVERNMENT'S MOTION FOR SUMMARY JUDGMENT

The government contracted with appellant for "suspension lugs," which are a type of threaded hook that attach to bombs and are used to suspend the bombs from aircraft. The government terminated the contract for default, alleging that appellant missed a delivery date. Appellant appealed, and the government moves for summary judgment, requesting denial of the appeal.

The motion is denied. Summary judgment shall be granted if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. FED. R. CIV. P. 56(a); *Mingus Constructors, Inc. v. United States*, 812 F.2d 1387, 1390 (Fed. Cir. 1987). Our review identifies at least one disputed issue for trial: whether the government's September 2013 inspection actions precluded timely delivery of suspension lugs that conformed to requirements of the contract.

Within 21 days of the date of this decision, the parties shall file a jointly-proposed schedule for further proceedings.

Dated: 5 January 2015


TIMOTHY P. MCILMAIL
Administrative Judge
Armed Services Board
of Contract Appeals

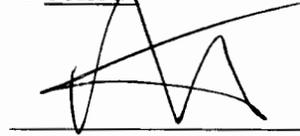
(Signatures continued)

I concur



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

I concur



RICHARD SHACKLEFORD
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 No. 59153, Appeal of Delfasco LLC, rendered in conformance with the Board's Charter.

Dated:

JEFFREY D. GARDIN
Recorder, Armed Services
Board of Contract Appeals