

The Guide to Concealed Damage Claims

Tips for Preventing & Resolving Concealed Damage Claims



A TranSolutions Inc. Publication

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About Concealed Damage Claims

Concealed damage claims are probably the most difficult type of freight damage claim to deal with, because it is so difficult to prove who is responsible for causing the loss or damage. For this reason, prevention is the best method. In Part 1 of this guide, we'll focus on simple methods for checking and recording potential damages in your shipment before signing off on the delivery receipt. This will help to reduce the number of claims that are classified as concealed damage in the first place.

However, it's not always possible to identify every exception at the time of delivery. With large palletized deliveries, it isn't practical to open each box while the driver waits! Therefore, Part 2 of this guide will cover a few tips to increase your chances of getting your concealed damage claim paid.

Part 1: Prevention of Concealed Damage Claims

Check for Damages

When you inspect your shipment, here are signs of damage that you should look for:

- Rips in packaging
- Dents in boxes or box corners
- Water marks or stains
- Mildew damage
- Punctures in containers
- Moisture or signs of leaking
- Rattling in boxes
- Unauthorized double stacking
- Evidence that packages have shifted on the pallet
- Evidence of opened packages or broken tape or seals
- Re-taped boxes
- Torn shrink-wrap
- Any other suspicious markings on packages

If you find any of these signs of damage, note it on the delivery receipt before signing it. Do not mark cartons subject to inspection, as this normally does not hold any credence with the carrier. Ensure your notation fully describes the condition of the shipment.

Don't underestimate the power of photos – they will go a long way to validate your exceptions. Take photographs of the damaged packages while in the truck and on the pallet. Then open any packages that appear to be damaged in the presence of the driver – note any damages on the delivery receipt and take additional photos.

Be specific when you describe the damages on the delivery receipt – include the TCN and note the location and number of damaged packages, and describe the type of damage for each piece. Remember that the extra time that you spend now will save you time and money when filing the claim. Make sure that the driver signs the delivery receipt as your witness of the damages.

However, one thing that you *should not* do is indicate to the driver that the shipment was poorly packed or that the cartons are not sufficient to protect the product. This will only help the carrier to deny liability!

Either in the presence of the driver or shortly thereafter and as soon as possible, call the carrier's delivering terminal to talk to the dispatcher and L&D claims department. Get an incidence number or claim number from the carrier and request an inspection. Then follow up with the carrier in writing so that you have a record of your request, and request a confirmation back. Be sure to save a copy of your correspondence.

Check that the Shipment is Not Short

If you are unable to count the full number of packages within the driver's presence, count the number of pallets and sign only for the number of pallets, rather than the number of packages.

Check if there are any gaps within the center of the pallet where a missing package should be. Torn or cut stretch wrap could be a sign that a package was removed, so you should unwrap pallets with signs of tampering to count the packages while in the driver's presence.

If the shipment is short, write down the number of pieces that you received and circle it. Also note the number of missing packages and write "short" next to this number.

Check that the Shipment is Correct

- Ensure that the delivery receipt shows your name and address.
- Check that the labels on the packages are addressed to you.
- If your business has multiple locations, ensure that the delivery is for the correct location.

If the delivery is not addressed to you, you should refuse the shipment.

Other Items to Record

Recording as many details as possible will help you prove that you did not damage the product in the event of concealed damage. It is wise to record these details for every shipment, even when there are no signs of damage. You should record the following:

- Who was involved in unloading the shipment?
- How the shipment was packed and secured (photographs work well to record this).
- Whether or not loading devices (such as forklifts) were used to move the packages prior to the discovery of damage.
- How the packages were handled after the discovery of damage up until the carrier's inspection.
- Check the seal on the trailer prior to opening it. Ensure that the seal number is recorded on the delivery receipt.
- Record the shortages and damages on both copies of the delivery receipt and ensure that you and the driver sign both copies.

Pre-Shipping Claims Prevention

Like any other claim, the carrier is liable for the loss or damages caused by the carrier's negligence. The difference is that concealed damage claims can be more challenging to prove.

Shippers can take the following precautions to reduce the risk of losses due to concealed damage claims:

- Photograph items prior to packaging and photograph the packaging itself to show that the items were in good condition at the point of origin.
- Use temperature, impact, and tilt recorders to monitor the conditions of the shipment's journey.
 - It is useful to note that very few cases involving these recorders make it into court, as carriers usually pay the claims when presented with evidence of their negligence.
 - Shippers should consider the value of the freight, the likelihood of a claim and the cost of these recorders when evaluating whether or not to use them as part of their shipping procedures.
- Record how the shipment was handled prior to loading.
- Record who took part in handling and loading the goods.
- Note whether or not loading devices (such as forklifts) were used during the loading process.
- Record how the shipment was loaded and secured.

Part 2: Once You Have A Concealed Damage Claim

Communicating with the Carrier

When loss or damage is detected, take the following steps:

- Report the damage to the carrier as soon as you find it, whether you have marked the damages on the delivery receipt or signed it as clear.
- Follow up with the carrier via email so that you have a record of your request, and request a confirmation back. Be sure to save a copy of your email correspondence.
- If the carrier wishes to schedule an inspection rather than waive it, schedule it as soon as possible, at most within 15 days. An increased time delay between the discovery of damage and the inspection makes it more difficult to prove that you didn't do additional damage after the delivery took place, so reduce this risk by requesting a prompt inspection.
- If the carrier waives the inspection, keep a record that the inspection was waived. If it was via email or letter, keep a copy in your records. If they waived the inspection over the phone, record the date, time and the name of the person that you spoke with. Then email the carrier to confirm the waived inspection and request confirmation back so that you have a written record.
- Do not destroy any packing material or damaged pallets – all packing material should be held until authorized by the carrier to destroy.

Tips for Supporting & Defending Your Concealed Damage Claim

If your shipment was transported by multiple carriers, ask the carrier for a copy of the interline bills. If the final carrier received a short or damaged shipment from the previous carrier, they may have noted it on their interline documents. If this is the case, this would serve as evidence of loss or damage prior to delivery.

Also read the inspection report carefully before signing off on it. Here is an example from Freight Claims in Plain English:

Inspection report forms often have a question such as: "Was damage of such nature it could be noticed at time of delivery?" If the inspector answers "Yes," the carrier will usually decline liability on the ground that if the damage had been present on delivery, the consignee would have taken exception to it.

For this reason, make sure that the inspection report is accurate prior to signing it.

Other evidence may also come into play. For example, if the damage is clearly forklift damage and the consignee does not own a forklift, this should be considered as evidence of damage by the shipper or carrier. Similarly, if the consignee did not move the packages after delivery, this is also evidence that the shipment could not have been damaged after delivery.

One More Way to Help Recover Your Concealed Damage Claims

When dealing with the short deadlines of concealed damage claims, timing is critical. MyEZClaim freight claim software helps you to file your claim quickly with these productivity features:

- Mobile capability allows you to take photos of damages with your phone and instantly upload them into MyEZClaim, before you even get back to the office.
- MyEZClaim automatically generates a digital claim form accepted by all carriers – so you can instantly email your claim information to your carrier, rather than waiting for them to receive it by mail.
- Required fields within the system remind you when you have left out needed information – helping you to avoid delays where carriers respond with requests for additional information.

Visit www.TranSolutionsInc.com to learn more, or get a [free 30 day trial here](#).