

Concealed Damage

Concealed damage claims are the most difficult type of claim to recover, especially with the NMFTA’s recent rule change. Now concealed damage claims must be reported within 5 days, instead of 15, as required previously. However, they are not impossible to recover, even if they are reported past this time limitation. Follow these steps when dealing with concealed damage.

# File Your Claim Within 5 Days

Concealed damage claims should be reported to the carrier and/or filed within 5 days of delivery wherever possible. After this time frame, you will have the additional burden of proving that the damage did not take place after delivery.

# Do a Self-Inspection

Complete a self-inspection and record your description and assessment of the packaging and damage. Then send your self-inspection to the carrier along with your request for inspection. They may choose to waive the inspection and use your self-inspection instead. Always include pictures of the packaging and the damaged product.

# Schedule the Inspection as Soon as Possible

Often times, the carrier will not waive the inspection. In this case, keep in mind that the longer the time period between the discovery of damage and the inspection, the more difficult it is to prove that damage didn’t occur after delivery. For this reason, request that the inspection takes place as soon as possible, and in any case, no more than 15 days after delivery.

The courts have ruled that if the carrier does not inspect the product within a reasonable time, your self-inspection report will be sufficient to support your claim.

# Collect Evidence

* **Collect interline bills** – If your shipment was damaged early in its route, one of the interline carriers may have recorded evidence of damage in their interline bills. This can be used as evidence to show that you were not responsible for the damage.
* **Review the type of damage** – Was the damage clearly caused by a forklift or other heavy machinery? If you do not have this type of machinery on site, then you can use this as evidence that the damage was not caused by you.

# Review the Inspection Report

If a carrier inspection is made, make sure that the inspection report does not contain any notes that will prevent you from filing your claim. Inspection reports often have a field that asks if the damage could have been noticed at the time of delivery. If the inspector answers “yes” to this question, the carrier will use this as evidence that the damage was your fault. Be sure to check the inspection report before signing off on it.

# Need More Help?

Contact Elkay at XXXXXXXXXX