

DEPARTMENT OF THE INTERIOR

UNITED STATES INDIAN SERVICE

INDIAN INDUSTRIAL SCHOOL

CARLISLE, PA.

263

J.M.K.

Sept. 16, 1907.

Subject:

Reasons for delay
in completion of hos-
pital building.

The Honorable,

The Commissioner of Indian Affairs,

Washington, D. C.



Sir:

I am in receipt of your Office letter (Finance Claim 176666), dated the 13th instant, by the Acting Chief Clerk, in regard to the reasons for the delay by the contractor, Mr. Harry G. Brown, in the completion of our new hospital building. Complying with the request for report as to reasons for the delay, I have to state that the same was due mainly to the change in the material used for the foundation from brick to stone (broken range). Attention is invited in this connection to my letter dated April 4th and to your Office reply thereto dated April 11th (Finance 33326-07).

Some delay also resulted from the change authorized in the height of the ceilings in the two wings of the hospital from 12 to 10 feet. This change constituted the subject of your Office letter (Finance 49002) dated May 7th.

I deem it proper to add that the contractor, Mr. Brown, met every requirement in connection with the erection of this new building in a satisfactory manner and in compliance with the provisions of the contract, and that the completed building is a very creditable piece of work.

The delay incident to its completion caused the school no

serious inconvenience as the change from the old hospital building to the new was made in ample time before our school opened September 1st, which was the object desired to be attained. No damage resulted from the delay and it is respectfully recommended, in view of my recommendation contained in letter of April 4th, that no deduction be made as liquidated damages at the rate of \$15 per day, as provided in the contract with Mr. Brown.

Very respectfully,



Major 11th Cavalry,
Superintendent.

JRW-Sch.

Z.S.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

G.B.G.

263
J.M.
October 17, 1907

GNW

The Commissioner of Indian Affairs.



Sir:

There is herewith returned, without my signature, 10 Enc draft of letter prepared by your office the purpose of which was to authorize you to waive liquidated damages in the sum of \$315 arising in the claim of Harry G. Brown for final payment on a hospital building erected at the Carlisle School, Pennsylvania, for twenty-one days delay at \$15 per day, upon a statement of the superintendent of the school that the delay in question was caused by changes by order of the Indian Office in certain materials originally specified to be used.

It is not believed that an executive officer of the government is authorized to waive liquidated damages in instances where an extension of time had not been granted prior to the time fixed in the contract for the completion of the work. This would seem to be a case in which the contractor should have relief, inasmuch as the delay was, according to the statement of your office, due to changes in specifications from the terms of the original contract. That there is no authority for an executive to extend the relief asked would seem to be settled by a decision of the Comptroller of the Treasury, in re Edward F. Fonder Company.

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SPECIAL

November 2, 1906 (13 Decisions of the Comptroller of the Treasury, 322), to which your attention is invited.

Because of the manifest equities of the contractor, it is suggested that the demand against the government be presented to the proper officer of the Treasury Department, with full explanation, for adjustment, where doubtless it will receive such favorable consideration as the law admits.

Very respectfully,

JAMES RUDOLPH HAYFIELD
Secretary.

DEPARTMENT OF THE INTERIOR
WASHINGTON.

Finance
76746/1907
78208/1907
78387/1907
File 263
Cl.176666
5 enclos



Auth. to waive liquidated
damages in claim of Harry
G. Brown on Carlisle Hospital
building.

The Commissioner of Indian Affairs

Sir:

Authority is hereby granted for you to waive liquidated damages of \$315.00 arising in the claim of Harry G. Brown for final payment on a hospital building erected at the Carlisle School, Pa., for twenty-one days delay at \$15.00 per day, upon a statement of the Superintendent of the school that the delay in question was caused by changes by order of your Office in certain materials originally specified to be used.

The voucher together with letters from the Superintendent of the Carlisle School and the contractor, upon which this authority is granted, are returned herewith.

Very respectfully,

GMB/RS

Acting Secretary.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

Finance
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GMB/RS

Acting Secretary.

263

Quarters

DEPARTMENT OF THE INTERIOR

UNITED STATES INDIAN SERVICE

INDIAN INDUSTRIAL SCHOOL

CARLISLE, PA.

Sept. 21, 1907.

John

Subject:
Delay in erection
of hospital building.



Wise

The Honorable,

The Commissioner of Indian Affairs,
Washington, D. C.

Sir:

Referring to your Office letter Finance 76746/07, dated the 20th instant from the Acting Commissioner of Indian Affairs, asking for a statement showing the exact amount of delay caused by the changes in the construction of the hospital building under contract with Mr. Harry G. Brown, which changes were allowed by your Office, I have to state that this matter has been brought to Mr. Brown's attention and a statement requested showing exactly what delays resulted from the changes. I inclose herewith his reply of this date from which it will be noted that he estimates a loss of time amounting to at least three weeks on account of change in the material used in the foundation from brick to broken or cut stone, and a further delay of at least five days as a result of change in height of ceilings in the wings.

I am of the opinion that the statements made by Mr. Brown as to the delays incident to these changes are correct, and that the delay of three weeks in the completion of the building which was accepted on August 21st and which should have been completed, under the contract, on August 1st, was occasioned by these changes alone.

Very respectfully,

F

W. A. Mercer

JRW-Sch.

Major 11th Cavalry, Supt.

Carlisle, Pa.,

September 21 1907
OFFICE OF AFFAIRS
RECEIVED
SEP 24 1907
File _____
78387

Major W. A. Mercer, Supt.,
Carlisle, Pa.

Dear Sir:

Complying with your request for a statement as to the causes for the delay in the completion of the hospital building which, under the contract, was to have been effected on August 1st, I have to state that such delay was due entirely to the change in the material to be used in the foundation from brick to stone and in the change in the height of ceilings of the wings. You will recall that when the matter of using broken range or cut stone for the foundation instead of brick was discussed that I stated that considerable delay might result owing to the difficulty of securing mechanics to cut the stone. The required brick, on the other hand, were ready and could have been procured immediately. I asked at the time for an extension of one month and you will recall your conversation over the telephone with the Indian Office submitting my proposition to that effect. The change was afterwards authorized by the Indian Office but the matter of extension of time was, as I understand it, left open. I believe, however, that you later requested an extension of three weeks by letter. I consider that I actually lost fully three weeks as a result of this change in foundation material.

In addition to the time lost as above stated, I estimate that a further loss of time was occasioned by the change in height

of ceilings in the wings amounting to about five days.

I wish to add that every possible effort was made to expedite the completion of this building and that no delays occurred or were permitted other than those above referred to.

Very respectfully,

Harry G. Brown.