Time for Loading Single Allowance – Owners Entitled to Claim Demurrage

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CM P-MAX III LTD v PETROLEOS DEL NORTE SA (THE MT "STENA PRIMORSK")

The owners had chartered the Mt Stena Primorsk to the charterers for a single voyage charter from Bilbao to Paulsboro, on the Delaware River. The recap provided a single allowance of 72 hours of laytime for loading and discharge. The charterparty included an Intertanko Chartering Questionnaire 88. The questionnaire included load line information and the owners' guidelines for under-keel clearance.

The ship arrived at Paulsboro, tendered notice of readiness (NOR) and made fast on 31 March 2019. After arrival, the terminal informed the master that for the first seven to eight hours, unloading would need to take place at a reduced rate of 5,000 barrels per hour. The master's view was that the ship needed to maintain a discharge rate of 15,799 barrels per hour to keep a safe under-keel clearance. He, therefore, took the decision to leave the berth and return to the anchorage, having decided that the available discharge speed would not allow the ship to maintain safe under-keel clearance.

On 1 April, the charterers requested a return to berth to commence discharge at the next high tide, starting at 21.00. The master contacted technical operators with under-keel clearance calculations, but at 17.20, NMM refused the waiver stating that there was "very little margin for safety and ensuring adequate under-keel clearance". On 4 April, the ship was lightered at anchor, allowing a return to berth to complete discharge on 6 April, after 154.63 hours of discharge laytime.

The owners now sought demurrage in the sum of US$143,153.64.

Charterers argued that the notice of readiness given by the owners upon arrival at Paulsboro was not valid because free practique had not been granted and that time for loading was suspended.

In response, the owners argued that the decision to suspend the time of loading was based on the safety of the ship and did not amount to a breach of charterparty.

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The court held that the owners' claim should succeed.

The authorities showed that a charterer must establish some "fault" on the part of the owners if time was to be suspended for demurrage purposes. In this case, there was a need for a careful risk assessment and an under-keel clearance calculation before a waiver could be considered.

A capricious refusal might have amounted to "fault" and so prevented time running for demurrage purposes, but in this case, the master's decision was justified.

The master's decision to leave the berth was appropriate for safety reasons and did not put the owners in breach of the charter. The NOR had been valid.

Contact us

If you have any questions, please contact our specialist shipping and logistics lawyers by emailing online.enquiries@la-law.com.

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