

Much-needed clarification of the documentary requirements of demurrage claims under the BPVOY4 Form Charterparty

Kassiopi Maritime Co Ltd v FAL Shipping Co Ltd “The Adventure”

Hamblen J [2015] EWHC 318 (Comm)

The vessel Adventure was chartered on an amended BPVOY4 form. The owners brought a claim for demurrage as a result of delays at both the load and discharge ports. The charterers refused to pay and the matter went to arbitration. The Tribunal held that the claim was time-barred by Clauses 19.7.3 and 20.1 because a number of documents had not been provided: port logs, time sheets and a hand-annotated email recording that free pratique had been granted by radio.

On appeal under Section 69 of the Arbitration Act 1996 Hamblen J held that the Tribunal had misconstrued Clause 19.7.3 because the “documentation” contemplated by the clause did not include all the documentation that the owners would be required to disclose in an arbitration to determine whether time counted during loading or discharging operations. However, the appeal was ultimately dismissed because the Court held that the port logs and time sheets were supporting documents which should have been provided with the demurrage claim notwithstanding that the relevant information contained in them was contained in other documents. The hand-annotated email was also probably a supporting document. The owners’ failure to provide the documents with the demurrage claim meant that it was time-barred under Clause 20.1.

Neil Henderson represented the appellant owners.