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Owners can refuse early redelivery

In the case of (Aquafaith)(2012 EWHC 1077), The English High Court held the owners were entitled to refuse early redelivery by the charterers and could still claim the full hire under the charterparty.

This was an appeal to the arbitrator's decision that the owners were required to accept redelivery, excercise their duty to mitigate their loss and then claim charterers for damages.

The High Court overturned the arbitrator's decision and held the owners were entitled to refuse early redelivery where the charterers were in repudiatory breach of the charterparty. Reference was made to the House Of Lords case of (White & Carter v McGregor)(1962) which was a non marine case. In this case a defendant cancelled an order to advertise his business for a period of three years later on the same day after he gave the order to advertise. The advertiser rejected the cancellation and continued the advertisements for the three years and was held to be entitled to receive the full advertisement fee for the three years, subject to two conditions :

1) The claimant must be able to carry out the contract without the cooperation of the other party who has refused to perform. In the case of an advertisement, clearly the advertiser does not need any cooperation to perform the contract.
2) The claimant has an legitimate interest to perform the contract.

Applying the two conditions to a charterparty, it is clear that an owner has a legitimate interest to perform the contract, but it is interesting to note that the Court deemed an owner does not need the cooperation of the charterer to perform the charterparty, presumably an idle vessel without any voyage employment instructions from the charterer is tanatmount to fulfillment of the charterparty.

Source of Information: Andrew Liu & Co., Ltd
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