

Circular Ref: 2022/0015

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NOR By E-mail – Is It Valid?

In a recent arbitration (2022) *1116 LMLN 4*, issue of validity of NOR tendered by e-mail arose.

Facts

- The vessel was chartered on an amended Asbatankvoy form.
- The Master had tendered NOR by email to a representative of the Charterers.
- On completion of the voyage, the Owners submitted a claim for demurrage. The charterers submitted that the tendered NOR were invalid, so time did not begin to run until discharge actually commenced.
- Clause 6 of the charterparty provided that the master need to tender NOR “*by letter, telegraph, wireless or telephone*”.

LMAA Small Claim Arbitration

- The Charterers relied upon *Trafigura Beheer BV v Ravennavi SpA (The Port Russel)* [2013] 2 Lloyd’s Rep 57, in which it was held that tender of NOR by e-mail was not permitted in relation to a BPVOY 3 charter pursuant to clause that provided “*by letter, facsimile transmission, telegram, telex, radio or telephone*”.
- The Owners argued that the methods prescribed for tendering NOR in this case can be differentiated from the case *The Port Russel*. In this case, the Owners argued that the e-mail that the master tendered NOR, was transmitted *wirelessly* using the vessel’s communication system. They provided evidence that transmission by e-mail was a wireless system.

Award

The Owners’ claim for demurrage succeeded and were awarded demurrage together with compound interest and costs.

FDD department of ALCO advice to clients of Andrew Liu is:

- a) The issue of tendering of NOR as to the method, place pursuant to clauses should be undertaken

carefully. FDD department unfortunately have done lots of small claim arbitration for clients that could have been avoided.

b) FDD Department remains open 24 x 7 to advice the clients on such issues.

Source of Information: Andrew Liu & Co., Ltd www.andrewliu.com.hk

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