

Condition of vessel on redelivery

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Duration of contractual service of the vessel under time charter confined between the terms of the place or time, or both, at which the vessel is redelivered, regardless of vessel's condition. Mustill, J., in *Santa Martha Baay Scheepvaart & Handelsmaatschappij N.V. v Scanbulk A/S (The "Rijn")*[1981] 2 Lloyd's Rep. 267 held at p.270 that:

Once the stated time has expired, or the stated port or range has been reached, the period of hiring is accomplished, even if the charterer is in breach at the time. Equally, from a commercial point of view, it would be absurd if the charter were to run on indefinitely, with the charterer obliged to retain the ship in service, even though there was no longer any voyage upon which she could permissibly be sent.

The owner cannot refuse to accept redelivery of damaged during charter period and not-repaired vessel. In *Wye SS Co v Compagnie Paris-Orleans* [1922] 1 KB 617, the ship was to be redelivered 'in same good order as when delivered', but she was tendered for redelivery in damaged²⁵ state. It was held that the charterparty involved two obligations on the charterers; (a) to redeliver, and (b) to redeliver in good order; and as the ship was tendered for redelivery at the proper time, no hire was payable in respect of the time subsequent to the tender during which repairs were being executed, but damages only, for detention and cost of repairs, were payable.²⁶

In *Bulfracht (Cyprus) Ltd. v Boneset Shipping Company Ltd. (The "Pamphilos")* [2002] EWHC 2292 (see also Off-hire due to marine growth) arbitrators, with whom the judge agreed, declined the owners claim under the second head that the charterers were in breach of their obligation to redeliver the vessel in like good order and condition, because of the fouling of the hull, which took place as a result of their following charterers' orders, namely 24 days of vessel stay at anchor off Sepetiba, Brasil. The tribunal held that burden of proof of breach lay on the owners who had to establish at least a prima facie case that the barnacles had grown during the charter service and that their growth fell outside 'ordinary wear and tear' exception. Although it was accepted that the barnacles had grown during the charter period, but such occurrence fell short of an extraordinary event, and was therefore an 'occupational hazard' which was within the redelivery proviso: 'in like good order and condition, ordinary wear and tear excepted'.

When on redelivery the vessel is under detention by port authorities it will not be an obstacle for the charterers. In *Ullises Shipping Corp v FAL Shipping Co Ltd (Greek Fighter)*

²⁵ Vessel was damaged owing to the charterers' default.

²⁶ See also *Attica Sea Carriers Corp v Ferrostaal-Poseidon Bulk Reederei GmbH* [1976] 1 Lloyd's Rep 253 and *The Rozel* [1994] 2 Lloyd's Rep 161