

EKSAMEN I JURIDISKE VALGEMNER

HØST 2015

Dato: Onsdag 2. desember 2015

Tid: Kl. 10:00 – 14:00

JUS5401 – Maritime Law: Contracts

The language of examination for this course is English: students may answer in English ONLY, answers in any other language than English will be given a F (F for fail).

The Norwegian exporter of fish, Norexport AS, entered into agreement with liner carrier, Norline AS, for the carriage of a reefer (refrigerated) container of frozen cod from Bergen, Norway, to Rotterdam, Holland. Norexport brought the container by truck (lorry) to Norline's terminal where it was disconnected from the truck and rolled onboard Norline's ship. A sea waybill was issued stating i.a.: "One reefer container, Bergen - Rotterdam, said to contain 18 pallets of frozen cod – to be refrigerated while on board."

When about to plug the ship's electric cable into the fitting of the cooling device of the container, it was discovered that the fitting did not match. Norexport's representative, Mr. Dale, admitted that this was a mistake on his/Norexport's part; he should have realized that the plug of the ships' cable was of a different design than that used by the truck.

A dilemma ensued as to how to resolve the situation. One alternative would be to discharge the container and wait for a later ship departure (Mr. Dale in the meantime having procured a proper fitting) but such a delay was unattractive to Norexport. Mr. Dale inquired whether the master might have an adaptor cable stored onboard. Upon checking, the master did find such a cable, while emphasizing that it had not been used during his time of service. They both visually checked the cable's condition. The master remarked that the cable seemed somewhat thin. Mr. Dale believed however that it looked alright, whereupon the cable was plugged in. The cooling device worked.

After some hours at sea the fire alarm went on in the cargo compartment where the reefer container was stowed. When entering the room the crew found it to be filled with heavy smoke, caused by the rubber insulation of the adaptor cable having melted due to overheating. There was no open fire as the electric supply to the cable had been cut off in time by the ship's safety fuse. Since there now was no means of supplying electricity to the container during the remainder of the voyage, the fish melted and became damaged.



It was subsequently established that the overheating of the adaptor cable was caused by it being under-dimensioned for the power demand of the container; the cable was too thin.

Norexport claimed damages against Norline, arguing that the ship had been unseaworthy at the commencement of the voyage. Norline denied liability, submitting inter alia that the problem with the cable stemmed from a failure on Norexport's part, and that Norline was in any event exempt from liability for damage caused by fire.

Q 1: Is Norline liable towards Norexport for the damaged fish?

The master had stowed the reefer container next to a pallet of chocolate which had been taken on board at a port of call prior to Bergen. The chocolate acquired taste from the heavy smoke and became damaged. The chocolate was owned by Freia AS. Freia claimed damages against Norline who denied liability.

Q 2: Is Norline liable towards Freia for the damaged chocolate?

When claimed by Freia, Norline turned against Norexport and claimed indemnity (recourse) in the event Norline were to be held liable towards Freia. In support of such indemnity claim Norline, again, pointed to the fact that problem with the cable stemmed from a failure on Norexport's part. Norexport denied such liability.

Q 3: Assuming Norline is liable towards Freia for the damaged chocolate, is Norline entitled to indemnity from Norexport for such liability?

Q 4 - to be answered only briefly: If Freia in the above case were to try and hold Norexport liable for the damaged chocolate, what legal rules would govern such a claim for damages by Freia against Norexport?

All questions are to be answered!

Sensuren faller Onsdag 23.desember klokken 15.00. Kontroller på StudWeb eller ta kontakt med Infosenteret på 22 85 95 00. Kandidatene har rett til en redegjørelse for sensurvedtaket ved henvendelse til sensorene innen en uke etter sensur. Kontaktinformasjon for sensorer finnes på Fakultetets nettsider. Du kan også ta kontakt med infosenteret. Klagefristen er tre uker etter sensur.

The result of the exams will be announced Wednesday 23 .December, at 15.00 hours. You can check the results in the StudWeb, or by contacting the Information Centre, phone 22 85 95 00. After the exam results are announced, candidates have the right to be informed of the grounds for the result as long as a request is made within one week of the announcement. The names and contact information of the examiners can be found on the Faculty's website, or by contacting the Information Centre. The deadline for appeal is three weeks after the announcement of the results.

Oslo, 02.12.2015