

## **Elva M II (Port Authority Claim) (2016)**

Location: Steveston Harbour, British Columbia

Case number: 120-704-C1

### **The Incident**

On the night of November 4/5, 2016, the 55-tonne fishing vessel *Elva M II*, a wooden vessel built in 1927, sunk while alongside in Steveston Harbour, British Columbia. The local Harbour Authority attended the scene along with the Canadian Coast Guard (CCG) to respond to the incident. They deployed booms and equipment to deal with the pollution. Diving services and local contractors were hired to raise the sunken vessel. The recovery operation took place the same day, and in the evening, the *Elva M II* was removed from the water. Once raised, the vessel was hauled ashore and deconstructed.

### **The Claim**

On February 9, 2017, the Steveston Harbour Authority filed a claim with the Administrator for costs and expenses in the amount of \$7,649.63, pursuant to the *Marine Liability Act* (MLA).

The Administrator determined that the claim was admissible under Part 7 of the Act.

### **Assessment and Offer**

After investigation and assessment of the claim, the Administrator made an offer to the Steveston Harbour Authority for the established amount of \$7,649.63 plus interest on February 22, 2017, as full and final settlement. The offer was accepted on March 6, 2017, and on March 21, a payment in the amount of \$7,736.30 including interest was sent to Steveston Harbour Authority.

### **Recovery Action**

On May 31, 2017, a demand letter was sent to the vessel owner, from which a response was received. On June 27, counsel for the Ship-source Oil pollution Fund (SOPF) informed the vessel owner of the strict liability provisions of the MLA and advised him that action would be commenced by the SOPF in seven days, unless a satisfactory settlement offer was received. In addition, on June 29, a proposal was sent by counsel to the vessel owner. However, the latter replied that he was unable to pay.

In July 2017, a locator service was engaged to complete an asset search on the vessel owner, and in October 2017, a Statement of Claim was filed. As no Statement of Defence was received, a Motion for Default Judgment was filed with the court, following which a judgment against the vessel owner was received. The Examination in Aid of Execution was held on December 22, 2017.

In August 2018, Counsel for the Administrator filed a Federal Court Garnishment Order. The Court made an order attaching all further payment from the owner's employer to the judgment debtor. By December 24, 2018, the Administrator received a total amount of \$3,266.46 for her subrogated claims of CCG and of Steveston Harbour Authority.

Given the impecuniosity and the age of the owner, the Administrator has assessed that the defendant has reached his ability to pay for the time being and she has decided to suspend further

collection. This decision will be subject to review and the Administrator will resume collection in respect of the outstanding judgment should the financial status of the owner improve.

**Status**

The file remains open.

**Related file**

*Elva M II* (CCG claim), case number 120-704-C1-1 (same incident, different claimant).