

Elva M II (CCG Claim) (2016)

Location: Steveston Harbour, British Columbia
Case number: 120-704-C1-1

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 Canadian Coast Guard (CCG) attended the scene along with the local Harbour Authority. The vessel owner advised CCG that he was not financially able to respond to the incident. Hence, CCG assumed the role of On-Scene Commander and advised the owner that he would be liable for the costs and expenses incurred.

CCG and the Harbour Authority 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

CCG's request for payment for costs and expenses incurred having been declined by the vessel owner, it then filed a claim pursuant to the *Marine Liability Act* (MLA), with the Administrator on February 28, 2017 in the amount of \$46,351.57.

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 CCG for the established amount of \$46,351.57 plus interest on March 31, 2017, as full and final settlement. The offer was accepted on April 24, 2017, and on May 15, a payment in the amount of \$46,967.15 including interest was sent to CCG.

Recovery Action

On May 31, 2017, a demand letter was sent to the vessel owner, to 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 (Port Authority claim), case number 120-704-C1 (same incident, different claimant).