诺亚天泽保险经纪
T&Z Consultants Ltd.

诺亚之风

2020/06/09 刊

目录

诺亚天泽保险经纪
青岛市崂山区香港东路 195 号上实中心 7 号楼 6 楼（邮编 266061）
电话: +86 532 82971085 | 邮箱: marine@tnzconsult.com
网址: http://www.tnzconsult.com

“清洁已装船”意味着什么？船长在签发提单时应注意什么？

编译作者：大连事业部 宋石磊
审核：理赔中心 王凤景

(编者按：我司 4 月 21 日公众号刊发了题为《一起大豆案引发的思考》的文章。近日 Standard 保赔协会的理赔专家 Elisabeth Birch 和 Revecca Vasiliou 又从船长签发提单时对货物表面状况的检查义务角度对该案进行了深入解读分析，我们在此编译该文章供各位海运朋友参考。)

01

背景

“TaiPrize”轮涉及一个期租租船人与航次租船人之间订立的从巴西到中国的散装大豆货物运输航次租船合同的案件。

货物装上船后，托运人向船长递交了一份提单草本，“托运人对货物的描述”一栏中的货物描述为：

“63,366.150 公吨巴西大豆
清洁已装船
运费已预付。”

船长毫无保留地签发了托运人递交的提单，包括在提单正面确认货物：

“在装运港装船，外表状况良好，装船后将运往卸货港……”

“重量、尺寸、质量、数量、情况、内容和价值不详……”

提单并入了海牙规则(HR)，并标明货物装船时“表面状况良好”。

然而，在泉州港卸货时，收货人声称货物受热和发霉，并为此索要担保。船东保赔协会以协会的格式出具了担保函，适用中国法律并受中国法院管辖。船东提出上诉，但两审均败诉，最后被判决须向收货人支付总计 1,086,564.70 美元的赔款。

之后，船东以和解的方式从期租租船人那里追讨了判决金额的 50%。期租租船人反过来又向航次租船人索赔来追讨损失。航次租船合同中并入了海牙规则，该规则没有明确规定期租租船人有权获得赔偿。仲裁员认为航次租船人必须赔偿期租租船人向船东分摊金额的 50%，因为：

i.托运人是航次租船人的代理人，已默示保证提单草本中关于货物状况所有陈述的准确性，或已默示同意赔偿期租租船人对任何此类陈述的不准确性所造成的后果。

ii.航次租船人通过托运人作为其代理人，保证货物“在装运港装船，表面状况良好”。

iii.实际上货物装船时并不是“…表面状况良好”。

航次租船人对仲裁结果提起上诉。在上诉中，必须审议的法律问题是:

● （1）在递交给船长的提单草本中“清洁已装船”和“…在装货港装船，表面状况良好”的表述是否相当于托运人或者航次租船人对装前货物表面状况的陈述或者保证？

● （2）在递交给船长的提单草本中“清洁已装船”和“…在装货港装船，表面状况良好”的表述”是否是邀请船长依照他自己对货物表面状况的评估做出事实陈述？

● （3）此外，如果海牙规则已并入航次租船合同或提单中，对于上述第(1)项关于货物状况的声明的后果，是否在租船合同或提单中被并入了默示赔偿条款?

02

海牙规则的立场

在这个案子中，并入航次租船合同和提单中的海牙规则对以下情况作出了明确的区分:

(i)托运人代表程租租船人提供的提单上所载的信息，承运人或者其船长有义务信以为真地来接受。

(ii)关于装运时货物表面状况的陈述。

海牙规则第 III 条第 3 款规定，提单中描述的“为辨认货物所需的主要标志”和“物的包数或件数，或数量，或重量”应为“托运人书面提供的信息”。因此，由托运人提供的此类信息，承运人、船东或船长应信以为真地来接受。

在本案中托运人在提单中所述的信息，即“该货物包含 63,366.150 公吨巴西大豆”。

该规则还规定提单中应描述“货物的表面状况”，但这不是“托运人以书面形式提供”的信息。鉴于此，这种描述只能由承运人或船东根据装运时的评估做出。在法律上讲，船长不应该仅仅因为有人提供就签署了这样一份清洁的提单。相反，在签署本文件之前，核实货物的表面状况并将其反映在提单上是船长的法定义务。

03

法律讨论

在案件审理中，关于上述问题（1）和（2），Pelling QC 法官发现当托运人向船长递交一份载有关于货物表面状况描述的提单以供船长签字时，托运人只不过是邀请承运人或船东，通过作为其代理人的船长就货物的表面状况进行事实描述。这样做，托运人既不保证其描述的准确性，也不保证提单上的描述代表了所装运货物的实际状况。

记录货物表面状况是承运人或者船舶所有人对托运人所负的义务。这种陈述的目的是作为记录承运人或船东关于货物装船时外表状况的证据。收货人和所有以后的提单持有人都信赖如实反映出货物在装船时的表面状况，因为这是胜任且善于观察的船长合理判断得出的。

法官进一步裁定，提单事实上并非不准确，因为船长没有也不可能合理地发现货物缺陷，因为在装船期间他或他的代理人不能合理地查到这些缺陷。

海牙规则第 III 条第 5 款规定，对于“…由托运人书面提供的”信息，托运人应被视为已向承运人提供了保证。这里指的是第 III 条第 3 款“为辨认货物所需的主要标志……”和“包数或件数，或数量，或重量……”。但是，对于“货物的表面状况”，没有这样的保证。因此，提单上的这些信息完全是船长的评估。

04

默示条款

在这个案例中要考虑的第三个问题是，如果海牙规则被并入租船合同或提单中，航次租船人/托运人是否对承运人有默示赔偿责任。

默示条款只有当有必要赋予合同商业便利之必要或如此明显不言而喻时才会被引用。如果合同中有明确的条款与拟议的默示条款不一致，默示条款根据定义就不能满足这些要求，因为双方已表明这不是他们的协议。因此，如果合同中有明示条款，合同中不得隐含任何与明示条款不一致的默示条款。

法官认为，如果航次租约或提单被解释为存在某项默示规定使得航次承租人有义务赔偿期租承租人，而海牙规则的起草者本可以但决定不就此做明确规定，那么这种解释就是错误的。

该判决明确表示船长代表承运人要根据自己对货物的外观状况的评估来描述事实。在签署由承租人/托运人递交的任何提单之前，核实货物的外表状况也是船长的工作。由期租租船人承担最终责任的判决结果没有任何不公平，不公正，不商业性或不合情理，因为没有虚假陈述，没有证据或发现表明船长是基于所称的虚假陈述采取了行动，而不是无法合理地核实货物状况。

法院裁定，期租租船人无权获得航次租船人的默示赔偿。

结论

此判决重申了检查评估装运货物的表面状况是船长应有的责任。这一原则是国际贸易的基石之一，因为贸易商和银行家依赖于提单中所载事实陈述的准确性。

一般而言，如果在装载时货物实际上是损坏的，那么基于多货物真实状况的争议，则仍可能获得赔偿。

如果货物的缺陷在装船时经合理检验并不能明显地查出来，船长在提单上没有任何批注的签字并不妨碍船东通过确定装货时货物的真实状况来抗辩货物受损索赔。如果船长无法合理地看到货物损坏，其“表面状况良好”的陈述并非是不准确的，如果船长对货物的状况不确定，他应避免接受这一描述。协会建议指派一名独立的检验人来协助调查。

编译自 Standard 保赔协会
本文仅供参考，如有需要，欢迎随时联系我司。

电 话： 0532-82971085
邮 箱： claim@tznconsult.com
info@tnzconsult.com
marine@tnzconsult.com

原文附后

What ‘clean on board’ means and whatshould a master be aware of when presented with a bill of lading?

07 May 2020

PrimindsShipping (HK) Co Ltd v NobleChartering Inc (The ’Tai Prize’)

Background
The Tai Prize[1] concerns a matterwhere the defendant head time charterer entered a voyage charter with theclaimant voyage charterer for the carriage of heavy grains, soyabeansin bulkfrom Brazil to China.

After the cargo was loaded onto the ship, the shipper presented a draft bill oflading to the master which under the heading “Shipper’s description of Goods”described the cargo as being:

’63,366.150metric tons Brazilian Soyabeans
Clean on Board
Freight pre-paid.’

The master executed the bill of ladingas presented without any reservations, and this included the followingconfirmation on the face of the bill of lading that the cargo had been:

’SHIPPED atthe Port of Loading in apparent good order and condition on board the Vesselfor carriage to the Port of Discharge…’

’Weight, measure, quality, quantity, condition, contents and value unknown…’

The bill of lading incorporated theHague Rules (HR) and stipulated that the cargo was loaded in ’apparent goodorder and condition.’

However, upon discharging the cargo in Quanzhou, the receivers alleged that thecargo suffered heat and mould damage and requested security for their claim.The ship owner’s P&I Club had issued security in the form of a club LOUthat was subject to Chinese law and the exclusive jurisdiction of the ChineseCourts. The ship owner contested the cargo claim up to the

Court of Appeal butlost in both instances and was eventually ordered to pay the receiver a sumequivalent to $1,086,564.70.

Thereafter, the ship owner recovered a 50% contribution of the judgment sumfrom the defendant head time charterer by way of a settlement. The head timecharterer in turn sought to recover this settlement from the claimant voyagecharterer. The voyage charterparty incorporated the Hague Rules which did notcontain an express provision under which the defendant was entitled to anindemnity.

The Arbitrator held that the voyage charterer had to indemnify the head timecharterer for their 50% contribution to the settlement with the ship ownerbecause:

i. the shipper was the voyage charterer's agent and had impliedly warranted the accuracy of any statement as to condition containedin the draft bill of lading or had impliedly agreed to indemnify the head timecharterer against the consequences of the inaccuracy of any such statement

ii. the voyage charterer, through the shipper as their agent, hadwarranted that the cargo was 'SHIPPED at the Port of Loading inapparent good order and condition'

iii. the cargo was not in fact shipped: '… in apparent goodorder and condition'.

The voyage chartererappealed and was granted permission to appeal the award. On appeal, the issuesat law which had to be considered were:

1. Did thewords 'Clean on Board' and '…SHIPPED at thePort of Loading in apparent good order and condition' in the draftbill of lading when presented to the master amount to a representation orwarranty by the shippers and / or voyage charterer as to the apparent conditionof the goods observed prior to loading?

2. Was theinvitation to the master to make a statement of fact in accordance with his ownassessment of the apparent condition of the goods?

3. Further, ifthe HR had been incorporated into the voyage charterparty or the bill of lading, would an indemnity be implied into the charterparty or bill of lading againstthe consequences of the statement at (1) above regarding the condition of thegoods?

Hague Rules position
In this case, the HR were incorporatedinto both the voyage charterparty and bill of lading and they made a cleardistinction between the position in relation to:

(i) information that appeared inthe bill of lading that was provided by the shipper on the voyage charterer'sbehalf, which the carrier or its master was obliged to accept at face value

(ii) representations as to the apparent condition of cargo at shipment.

Art. III rule 3 of the HR provides that the 'leading marks necessary foridentification of the goods' and 'the number of packages or pieces or thequantity or weight' of the goods described on the bill of lading constitutingthe cargo will be information 'furnished in writing by the shipper'.Hence, such information from to the shipper to a carrier, ship owner or itsmaster is to be accepted at face value.

In the present case this applied to the information that the shipper providedas described in the bill of lading that the cargo consisted of '63,366.150metric tons Brazilian Soyabeans'.

This rule continues to state that the bill of lading should also set out 'theapparent order and condition of the goods' but this is not information that isto be 'furnished in writing by the shipper'. Given this, such an assessment isexclusively made by the carrier or a ship owner (or the master on its behalf)of the goods at the point of shipment. At law, the master should not sign aclean bill just because one is tendered; instead it is his legal obligation toverify the apparent conditions of the goods, and reflect this in the bills oflading before he signs this document.

Legal discussion
On appeal, in relation to issues (1)and (2) above, Judge Pelling QC found that when a shipper tenders a bill oflading for signature to the master that contains a statement as toapparent condition of the goods, the shipper is doing no more than inviting thecarrier or ship owner, via the master as their agent, to make a representationof fact as to the apparent condition of the goods on shipment. In so doing, theshipper is neither warranting the accuracy of the represented facts, nor thatthe statement in the bill of lading is a representation as to the actualcondition of the goods shipped.

The obligation to record the apparent order and condition of the goods remainsone that is owed by the carrier or ship owner to the shipper. The purpose ofthe representation is to record the carrier or shipowner's evidence as to theapparent condition of the goods when placed aboard the ship. It is relied on bythe consignee and all subsequent holders of the bill of lading as reflectingthe apparent condition of the goods when placed on board based on thereasonable judgement of a reasonably competent and observant master.

The judge further held that the bill of lading was not inaccurate as a matterof fact because the master did not and could not reasonably have discovered thedefects because they were not reasonably visible to him or his agent duringloading.

Under Art. III rule 5 of the HR, a warranty is deemed to have been supplied bythe shipper to the carrier in respect of information '… furnished in writing bythe shipper'. This refers to Art III rule 3, regarding 'leading marks necessaryfor identification of the goods…' and 'the number of packages or pieces or thequality or weight…'. There is however no such guarantee deemed to be given inrespect of the 'apparent condition of the goods.' Accordingly, this informationin the bill of lading is exclusively an assessment by the master.

Implied Term

The third issue that was considered inthis case was that if the HR were incorporated into the charterparty or thebill of lading whether there was an implied indemnity from the voyage charterer/ shipper to the carrier.

Terms are implied only if it is necessary to give the contract businessefficacy or was so obvious that it goes without saying. If there is anexpress term in the contract which is inconsistent with the proposed impliedterm, the latter cannot, by definition meet these tests, since the parties havedemonstrated that it is not their agreement. Given this, no term may be impliedinto a contract if it would be inconsistent with an express term.

The judge held it would be wrong to imply a provision into the voyagecharterparty or bill of lading that would make the claimant (the voyagecharterer) liable to indemnify the defendant (the head time charterers) whenthe drafters of the HR could have, but decided not to, provide expressly forsuch a provision. This judgement makes clear that it

isthe master (on behalf of the carrier) who is to make a representation of factin accordance with his own assessment of the apparent condition of the cargo.It is also the master's task to verify the apparent condition of the goodsbefore signing any bill of lading presented by the charterer/shipper. There wasnothing unfair, unjust, uncommercial or unconscionable about an outcome thatleft ultimate liability with the defendant head time charterer because therewas no misrepresentation, no evidence or finding that the master had acted onthe alleged misrepresentation rather than being unable to reasonably verify thecondition of the goods.It was held that the head timecharterer was not entitled to an implied indemnity from the voyage charterer.

Conclusion

This judgment reinforces that it isthe master who has the sole responsibility for assessing the apparent order andcondition of the goods shipped. This principle is one of the cornerstones ofinternational trade, given the reliance placed by traders and bankers on theaccuracy of statements of fact contained in the bill of lading.

As a general point, in the event that the cargo is in fact loaded in a damagedcondition, an indemnity may still be available if there was a genuine disputeover the condition of the cargo.

In cases where defects in the goods are not apparent on reasonable inspectionat the point of shipment, the master's signature of the bill of lading withoutany qualification does not prevent the owner from defending a cargo damageclaim by establishing the true condition of the goods upon loading. Where cargodamage is not reasonably visible to the master the representation that it was'in apparent good order and condition' is not inaccurate and the master shouldrefrain from accepting this qualification if he is unsure about the conditionof the cargo. The club would advise that an independent surveyor is appointedto assist.

货主可以向船东索赔货物在运输途中发生的任何损失吗？

作者：华东事业部 朱荣波

笔者处理实务时，惊奇地发现，在海上运输中，竟然有货主对上船的货物没有投保海上货物运输保险，尤其是海上捕获的远洋渔货通过他船从海上运输回港口，相当一部分的渔货货主没有购买货运险，并认为没有必要购买。这些货主持有的观点是，货物在运输船上无论发生损坏或灭失或短少，不管什么原因，都是船东的责任，应该由船东来赔偿。当然，他们也有节约成本的考虑。

这些货主的此种认识在法律法规之下是站不住脚的，是将自己的利益暴露在很大的风险之下。

笔者将从以下几个方面简要分析一下货主为什么应该购买货运险来全面保障自己的货物权益：

01

-货物运输期间可能不仅限于海上运输

我国《海商法》第四十六条规定了承运人的责任期间，对于集装箱货物是自接受货物至交付时止，对于非集装箱的责任期间为自装上船舶至卸下船舶时止。可见，海上货物运输只是整个货物流转中的一环而已，货方还会面临其他的运输环节，比如陆上运输等等。

而货物可能会在港口转运时受损，在运去仓库的过程中受损等等，这些情况往往和海上承运人没有关系。货物运输保险可以将货物的风险期间延展到更为全面。目前 ICC 条款和我国人保远洋货物运输条款的责任期间都为“仓至仓”条款[i]，这个期间是远远大于海上承运人责任期间的，从某种意义上将，货物运输保险是综合了海上风险以及陆上风险的综合保险。

所以，在非海上承运人责任期间一旦发生货损，货方是不能向海上承运人主张赔偿的，这种损失只能自己承担。比如在承运人在卸港交货之后，货物经由收货人转运至自己仓库途中遭遇损坏，在没有货物运输保险的情况下，收货人只能自担损失。更不必说，对于一些装载于甲板上的货物，承运人不承担货损责任。

[i]细节处略有不同。

02

海上承运人享有一定的免责

那么假如在海运承运人责任期间发生的货损，承运人就一定要赔偿货方吗？答案是否定的。

由于海上运输的特殊性以及历史原因，海运承运人享有了许多免责事项，也就是因免责事项造成的货物损坏，其不必承担责任。我国《海商法》第五十一条，给予了承运人 12 项免责事项，比如常说的驾驶船舶或管理船舶中的过失、火灾、战争、固有缺陷等等。虽然承运人享受免责的前提是船舶适航且负举证责任，但是由于相对于对运输一线极为了解的承运人，货方在事故发生后再去寻找线索来举证不适航颇为被动和困难。

以人保海洋货物运输一切险条款为例，其承保范围极为广泛：货物在运输途中由于外来原因所致的全部或部分损失。免责事项也比较少[ii]，主要为被保险人故意、发货人责任、本质缺陷等等。但是，读者朋友可以发现，对于比如本质缺陷导致的货损，货方既无法从承运人处获得赔偿，也无法从保险人处获得赔偿。对于战争和罢工等风险，货方可以另外投保相应的货物保险。

[ii]一般比《海商法》二百四十二条及二百四十三条稍有扩展。

03

海上承运人享有赔偿责任限制

由于海上承运人一直以来被认为是冒险行为，为了对其鼓励以使社会享受利益，各国立法或者国际公约对承运人的赔偿责任做出了限定。比如我国《海商法》第五十五、五十六及二百零七条等，给予了承运人单件责任限制、综合责任限制（海事赔偿责任限制）的权利（包括货物责任）。因此，即使货物损失巨大，也有可能只能从承运人处获得部分赔偿。实践中承运人在大型事故中常常援引责任限制，而此时货方却未必能通过举证使得承运人丧失这种权利[iii]，更不必说还会存在法定船舶优先权以及事故中人身损害赔偿优先赔偿等规定。

所以，从这个角度而言，货物运输保险也是十分必要的。货物运输保险是定值保险，保险人和被保险人在订立保险合同时已经确定投保价值以及保险金额，赔偿的限额为保险金额，通常为 CIF 价值再加成 10%。这种保障在金额上对货方而言是充足和匹配的。再有一点，海上保险中特有的推定全损和委付制度，对货方而言更是一个在面对复杂案件时的解脱之路。

[iii]《海商法》第二百零九条。

04

货主需要自担而无法向承运人索赔的费用

对于承运人责任造成的损失，其赔偿范围是：货物灭失、损坏以及延迟交付。而对于货方而言，其所会遭受的损失或者产生的费用显然不止于此，甚至会遇到还要向承运人付钱的情况。

可举一共同海损案例：载货船舶因驾驶疏忽，在一处暗礁上搁浅导致某个货舱进水而货损，在脱浅不能时向专业救助公司求救，后被拖带至避难港修理，产生大量费用。依我国《海商法》（以及国际惯例），对于其中属于共同海损的费用需要由各受益方分摊。所以会出现的局面是，货方非但不能就货损事宜从承运人那里获得赔偿（由于驾驶船舶系免责事项），还要和承运人一起分摊共损[iiii]。

事实上，除了共同海损之外，货主还可能会为救助货物发生救助费用、施救费用、评估费用等等，而这些费用都是海上货运险承保的，可以直接从该保险下获得赔偿。

除上述几点外，货运保险对货主有个最大的好处是，可以不用去找承运人理论责任和损失，又耗时间又耗精力，而可以直接从货运险保险人那里获得赔偿。货主同时需将权益转让给货运险保险人，让保险人去追偿承运人，自己落得省心省力。

海上货运险投保与事故处理都需谨慎，建议通过专业的保险经纪人来操作。

[iiii]《海商法》第一百九十九条

[i]细节处略有不同。

[ii]一般比《海商法》二百四十二条及二百四十三条稍有扩展。

[iii]《海商法》第二百零九条。

[iiii]《海商法》第一百九十九条

本文仅供读者参考，如需帮助请联系我们或咨询专业律师。

电话：0532-82971085
邮箱：marine@tnzconsult.com
claim@tznconsult.com
info@tnzconsult.com

还船通知知多少

编整作者：理赔中心 王凤景

还船通知几乎是期租租约中的必备条款。条款措辞简单，但却时常成为航运朋友的困扰。本文笔者将就该条款的常见问题做简单介绍。

01
简言之，还船通知是为方便船东对还船后的船舶运营做及时安排，而要求承租人提前告知还船时间的一项特别约定。在租约中的措辞通常为：

Charterers shall give Owners not less than20/15/10 days approximate notices of vessel’s expected date of redelivery and3/2/1 days of definite notices with named port.

对于 approximatenotice，我们暂且称为“估计还船通知”；而对于 definite notice，暂且称为“确实还船通知”。

如果租约中没有明确为“approximatenotice”或类似措辞，通常会认为属于“确实还船通知”。

02
还船通知一定要准确吗？

估计还船通知
顾名思义，估计还船通知是告知一个大体的还船时间，以便船东有一个合理的预期。由于通常距离实际还船时间相对较长，期间可能存在较多的变数，所以法律上也不要求其通知的还船时间必须准确，除非租约中有相反约定或通知中有相反声明。

尽管如此，这并不意味着承租人在签发估计还船通知时可以任意发挥；相反，法律要求其在签发通知时必须诚信且有合理的基础。比如：船舶明明需要 10 天才能到港卸货完成最后一个航次，而承租人签发 7 天还船通知，该通知就明显没有合理基础。

对于承租人诚信且有合理基础签发的估计还船通知，即使通知中的日期最后被证明不正确，船东也不能向承租人索赔。

确实还船通知

不同于估计还船通知，确实还船通知要求必须准确。如果承租人在租约允许的时间内还船，但没有根据租约递交确实还船通知或还船通知的日期不准确，船东可以向承租人索赔。

承租人可以单方面撤回还船通知吗？

在英国法下，基于“AGW（all going well）”“WP(weather permitting)”“WOG(without guarantee)”的陈述不具有约束力。所以，如果承租人递交基于“AGW”“WP”“WOG”的还船通知，船东依赖于此签订了下一个租约，而后承租人却单方面撤回还船通知并决定再用一个航次（依然在租约允许范围内），船东不能据此向承租人索赔，也不能拒绝承租人继续使用船舶（The Zenovia[2009]）。为避免这种损失风险，船东应该取得承租人的确实还船通知。

另一方面，根据租约承租人本来应该发确实还船通知，但由于不是很确定，往往加上“AGW”“WP”“WOG”等，这样就不算确实还船通知了。如果船东因承租人没有按约定发确实还船通知而遭受损失，可以向承租人索赔

承租人不按租约递交还船通知，船东怎么办？

递交还船通知不是还船的先决条件，船东不能以承租人没有递交还船通知为由拒绝接受还船，而是应该接受还船。

但承租人不按照租约递交还船通知属于违约，由此给船东造成损失，船东可以向承租人索赔。此处要注意两点：

1）索赔需要证明因果关系。即船东需要证明是由于承租人没有正确递交还船通知导致了其损失。如果只能证明违约而不能证明损失，或者无法证明违约和损失之间的因果关系，均无法获得承租人赔偿。

2）减损义务。船东应该尽自己所能安排船舶的下一步运营以减少损失。否则由于船东不积极减损导致的损失，法律不予支持。

由此可见，船东在接受承租人还船后，一方面要积极行动，另一方面要特别注意搜集各种信息，记录行为，留存证据，以免自己的损失因证据不足而得不到充分补偿。

哪些损失可以得到补偿？

承租人没有根据租约递交还船通知，对于船东的损失补偿，限于使船东回到承租人根据租约正确递交还船通知的状态（The Great Creation[2014]）。

1）早还船

如果承租人漏交或晚交还船通知导致实际还船早于租约约定，船东将有权取得承租人实际还船日至约定还船日之间的租金。

举例说明：租约约定 20 天的还船通知，但承租人只在实际还船前 7 天递交了还船通知，则船东有权取得租约剩余 13 天的租金。另外，鉴于法律规定的船东减损义务，船东在下一租约的相应时间内中获得的租金也应计归承租人。

2）晚还船

如果承租人递交了还船通知但实际还船迟延，船东有权就超期的时间按照租约约定的租金获得承租人赔偿。

无论如何，船东不能向承租人索赔由于承租人迟延还船而在将来的潜在/实际租约中丧失的商业机会和利润损失，原因在于这些并非合同双方在签订租约时考虑的范畴。然而，如果在签订租约时，船东已签订后续租约并将此告知了承租人，且后续租约的租金高于签订租约时的市场水平，则船东可以向承租人索赔后续租约的租金损失。

参考资料：

1.“Notices of redelivery in a nutshell”written by Julien Rabeaux

fromWest of England P&I Club

2. 杨大明 著 《期租合同》

编辑：宋雪

上述文章仅供读者参考，如需帮助请联系我们。

电话： 0532-82971085
邮箱： claim@tznconsult.com
info@tnzconsult.com
marine@tnzconsult.com