

CASE NO.

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Cite as: Classic Seafoods v. Nippon Express Canada Ltd., 1997 NSCA 186

CLASSIC SEAFOODS

- and -

NIPPON EXPRESS CANADA LIMITED

Appellant

Respondent

C.A. No. 138317

Halifax

CHIPMAN, J.A.

APPEAL HEARD:

November 13, 1997

JUDGMENT DELIVERED:

November 25, 1997

SUBJECT:

CONTRACT - Exclusion Clause - Implied duty to exercise reasonable care in fulfilling terms of contract

SUMMARY:

The trial judge found that the defendant, who had entered into a split charter agreement to transport lobsters for the plaintiff to Europe was absolved from liability resulting from the failure of the airline engaged by the defendant to supply an aircraft at the appointed time. The trial judge found that the defendant was protected by an exclusion clause in the contract relating to cancellation of charters by the airline and that the defendant had otherwise exercised all reasonable care to perform the contract.

ISSUE:

Whether the trial judge erred.

RESULT:

The Court of Appeal held that the trial judge had not erred either in the fact finding process or in law. The appeal was dismissed with costs.

THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT FROM THIS COVER SHEET. THE FULL COURT DECISION CONSISTS OF 8 PAGES.