

FEDERAL MARITIME COMMISSION

TERENO SDN BHD,

Claimant,

v.

C.H. ROBINSON INT'L, INC.,

Respondent.

Docket No. 1972(I)

Served: March 22, 2022

BY THE COMMISSION: Daniel B. MAFFEI, *Chairman*,
Rebecca F. DYE, , Louis E. SOLA, Carl W. BENTZEL, Max M.
VEKICH, *Commissioners*.

Order Affirming Initial Decision

The SCO's Initial Decision (I.D.) was issued on January 27, 2022, and denied Claimant's request for reparations and dismissed its complaint. The Commission determined to review this decision under 46 C.F.R. § 502.304(g) and now affirms, with one clarification. The SCO noted that "in this case the ocean common carrier that imposed the demurrage charges at issue is not a party in this proceeding and Respondent merely passed through the charges from the ocean common carrier." I.D. at 10. This could be read as creating a defense to liability under 46 U.S.C. § 41102(c) for

regulated entities who “pass on” charges that originate with other entities.

The Commission clarifies that “passing on” a charge is not necessarily a defense under § 41102(c). Here, Claimant dealt with Respondent, and it was Respondent who imposed demurrage on Claimant. Claimant’s claim fails, not because Respondent was passing on the charge, but because Claimant did not prove that Respondent acted unreasonably and because there was evidence that Claimant did not satisfy its obligation to timely provide the documentation needed to release its cargo.

THEREFORE, IT IS ORDERED, That the Initial Decision be **AFFIRMED**.

IT IS FURTHER ORDERED, That Claimant’s claims be **DENIED**.

IT IS FURTHER ORDERED, That this proceeding be discontinued.

By the Commission.

William Cody
Secretary