

United States Vs. Clyde

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Court : US Supreme Court

Decided On : 1871

Appeal No. : 80 U.S. 35

Appellant : United States

Respondent : Clyde

Judgement :

United States v. Clyde - 80 U.S. 35 (1871)

U.S. Supreme Court United States v. Clyde, 80 U.S. 13 Wall. 35 35 (1871)

United States v. Clyde

80 U.S. (13 Wall.) 35

APPEAL FROM THE

COURT OF CLAIMS

SYLLABUS

Receiving payment of a sum of money for a disputed claim against the government and giving a receipt in full therefor will, in the absence of proof of any mistake, be deemed a satisfaction of the claim.

Clyde presented his petition in that court, claiming, by

Page 80 U. S. 36

one count of it (the first), compensation for the use of his ferry boat *Tallacca*.

The facts found by the court were that on the 16th of November, 1862, the *Tallacca*, owned by the claimant and at the time lying at Alexandria, was chartered by Captain Ferguson, an assistant quartermaster of the United States army, at the rate of \$115 per day for every day she might be employed in the service of the United States, and until returned to the port whence taken, and that the said boat continued in the service of the government from the date of the charter party until the 31st of July, 1863, and was paid at the agreed rate up to the last of February, 1863, without objection; but that, on the 13th of May, 1863, the Quartermaster General disapproved of the charter party by the following order:

"The charter of the *Tallacca* is disapproved by the Quartermaster General. She will be paid for only at the rate of \$75 per day from the date of her charter, so long as she may be retained in the service. The excess of \$40 per day already paid will be deducted on the present settlement for her services from March 1, 1863,"

&c.;

The claimant received notice of the contents of this order during the month of May. He refused to consent to the reduction, but did not show to the Court of Claims whether, on receiving notice of this order, he determined to allow his boat to remain in the service at the reduced rate or sought to take her out of it. The boat in fact remained in the service until July 31, 1863. No further payment was made until December, 1863, when the quartermaster stated the account at the reduced rate, deducted the excess of \$40 per day paid on the former settlements, and paid the claimant the balance. The claimant receipted for this balance as "in full of the above account."

Upon these facts, the Court of Claims decided that the claimant was entitled to be paid at the rate named in the charter party until he received notice of the reduction

made by the Quartermaster General, and after that at the reduced rate.

Page 80 U. S. 37

From this decision both parties appealed, the United States on the ground that the payment received and receipt given by Clyde was a bar to any further claim upon the government -- a position for which they relied on *United States v. Child*, decided at the last term -- the claimant on the ground that he was entitled to have the full amount stipulated for in the charter party.

MR. JUSTICE BRADLEY delivered the opinion of the Court.

On the principles determined by this Court in the late case of *United States v. Child*, we think that the Court of Claims erred in the decision made. From the time that the order of the Quartermaster General was made disapproving of the charter party and raising the rate for the whole period of service, the case was clearly one of dispute, at least, if not one of acquiescence on the part of the claimant. Notwithstanding this order, he permitted his boat to remain in the service until the 31st of July, knowing the change of terms which the Quartermaster General had made. It cannot be pretended that there were two lettings, or two charter parties, of the vessel. There was only one, and as to this one the government determined to allow one rate, and the claimant insisted on another. The government stood on the order of the superior officer and insisted that this should govern the contract; the claimant insisted the contrary. Under these circumstances, the final determination of the latter to take the balance of the account as made out on the basis contended for by the government, and his giving a receipt in full, is clear evidence that he agreed to take that balance in satisfaction of the claim, and this fact, under the circumstances of the case, concludes him from making any further demand.

Judgment reversed, and the record remitted with directions

Page 80 U. S. 38

to enter a decree of dismissal as to this first count in the petition.

MR. JUSTICE FIELD dissented from this judgment.

[See the [80 U. S.](#)]

* 12 Wall. 232.

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