

Trade & Transportation Insurance News

Carriers Claim

July 2008

Introduction

The value of having insurance often extends beyond simply the risks insured against.

This newsletter highlights a claim where the insured was being pursued for a loss that they were not legally responsible for.

As a small business owner, the insured did not have the resources to stand up to a legal challenge from an international insurer and their legal team.

Although the loss was not covered by our policy, we used our expertise and experience in this area to successfully assist the client.

Both the client and the broker expressed their huge relief and gratitude that Vero Marine & Aviation were prepared to provide such valuable support.

Disclaimer

This newsletter is for information purposes only and is not legal advice.

The Insured

A Livestock Carrier

The Policy

Carriers' Goodwill covering losses arising out of fire, flood, collision and or overturning of the conveying vehicle.

The Transit

The Carrier contracted to carry cattle from the Northern Territory to Queensland for 'fattening up'.

The transit procedures (with three water/feeding stops) were jointly agreed to because of the condition of the cattle. Both parties wanted to prevent fatalities during the transit.

The Loss

7% of the cattle died en route.

The insurance company which insured the cattle, paid the claim and appointed lawyers to take a recovery action against the carrier.

The Claim on VMA

The Carrier and Broker contacted VMA, very concerned at the amount of pressure being put on them to pay the recovery.

Although the loss was not covered by the policy, we offered to assist them in recognition of being a longstanding client and a supporting broker.

We obtained a copy of both the survey report and the vet's report. From the information provided it was obvious that the cattle were in very poor condition and about half the weight that they should have been at the start of the transit.

It seemed apparent that, even if left on the property in NT, they would have died.

The vet's report concluded:

"The feeding, watering and spelling procedures undertaken would seem to be **more than adequate** to ensure the safe travel of animals over this distance"

The survey report stated: "cattle in poor condition would not normally be transported on such a long journey".

The deaths were not caused by injuries to the cattle. The most likely cause of death was hypocalcaemia which is a dietary problem.

It was our view that the death of the cattle was not caused by negligence of the carrier but by the condition of the cattle at the commencement of transit. That is something over which the carrier had no control.

The Result

We successfully argued our client's case to the lawyers and the recovery claim was withdrawn.

As a consequence, no costs were incurred by our insured and a stressful situation was resolved – a result they were very happy about!

**The Team at Vero
Marine and Aviation**