

CANADA LABOUR CODE
PART II
OCCUPATIONAL SAFETY AND HEALTH

Review under section 146 of the Canada Labour Code, Part II,
of a direction issued by a safety officer

Applicant: Western Stevedoring Company Ltd.
North Vancouver, B.C.
Represented by: Mr. Alan J. Hamilton, Counsel

Respondent: International Longshoremen's & Warehousemen's Union
Local 500
Represented by: Mr. Chuck Zucherman

Mis en cause: Jim Beynon
Safety Officer
Human Resources Development Canada

Before: Serge Cadieux
Regional Safety Officer
Human Resources Development Canada

On May 28, 1996, Western Stevedoring Company Ltd. requested a review of a direction (see Appendix) issued under paragraph 145(2)(a) of the Canada Labour Code, Part II by safety officer Jim Beynon to Western's Lynntern Terminal. The direction was issued following the fatal accident that involved lumber falling on a truck driver during an unloading procedure.

Written submissions were entered on behalf of Western Stevedoring on August 20, 1996. An oral hearing was scheduled to be held on October 24, 1996 in Vancouver, B.C.. On October 21, 1996, counsel for Western Stevedoring informed the Regional Safety Officer that the company was withdrawing its appeal of the direction.

As the Regional Safety Officer responsible to review this direction, I am confirming that Western Stevedoring Company Ltd. has withdrawn its request to have the direction, issued on May 10, 1996 by safety officer Jim Beynon, reviewed. I therefore declare that I am no longer seized of this matter. This file is closed.

Issued on October 25, 1996

Serge Cadieux
Regional Safety Officer

IN THE MATTER OF THE CANADA LABOUR CODE -
PART II - OCCUPATIONAL SAFETY AND HEALTH

DIRECTION TO AN EMPLOYER UNDER PARAGRAPH 145(2)(a)

On May 10, 1996, the undersigned safety officer conducted an inquiry of a hazardous occurrence resulting in the death of M. MacKay in the work place operated by Western Stevedoring Company Ltd. , being an employer subject to the Canada Labour Code, Part II, at 15 Mountain Highway, North Vancouver, B.C., Canada V7J 2J9, the said work place being sometimes known as Lynnterm.

The said safety officer considers that the use or operation of a machine constitutes a danger:

The operation of forklifts unloading lumber trucks without a procedure in place to ensure the safety of all personnel in the area.

In violation of section 125.(s) of the *Canada Labour Code*, Part II and section 14.37 of the Canada Occupational Safety and Health Regulations.

Canada Labour Code, Part II, Section 125

125. Without restricting the generality of section 124, every employer shall, in respect of every work place controlled by the employer,

- (s) ensure that each employee is made aware of every known or foreseeable safety or health hazard in the area where that employee works.

Canada Occupational Safety and Health Regulations, Section 14

14.37(1) In this section, A materials handling area@ means an area within which

- (a) mobile equipment, or
- (b) other materials handling equipment with wide swinging booms or other similar parts may create a hazard to any person.

(2) The main approaches to any materials handling area shall be posted with warning signs or shall be under the control of a signaller while operations are in progress.

(3) No personnel shall enter a materials handling area while operations are in progress unless that person

- (a) is a safety officer;

- (b) is an employee whose presence in the materials handling area is essential to the conduct, supervision or safety of the operations; or
- (c) is a person who has been instructed by the employer to be in the materials handling area while operations are in progress.

(4) If any person other than a person referred to in subsection (3) enters a materials handling area while operations are in progress, the employer shall cause the operations in that area to be immediately discontinued and not resumed until that person has left the area.

Therefore, you are HEREBY DIRECTED, pursuant to paragraph 145(2)(a) of the Canada Labour Code, Part II, to protect any person from the danger, immediately.

Issued at Vancouver, this 10th day of May, 1996.

Jim Beynon
Safety Officer
ID No. 316

To: Western Stevedoring Company Ltd.
15 Mountain Highway
North Vancouver, B.C. V7J 2J9

SUMMARY OF REGIONAL SAFETY OFFICER DECISION

Applicant: Western Stevedoring Company Ltd.

KEYWORDS

Fatal accident, unloading

PROVISIONS

Code: 125(s), 145(2)(a)
COSH Regulations: 14.37

SUMMARY

A safety officer gave a direction to Western Stevedoring Company Ltd. following a fatal accident that occurred during unloading of a truck. The company requested a review of the direction in a timely fashion but withdrew its request without specifying the reason.