

**Canada Labour Code**  
**Part II**  
**Occupational Health and Safety**

Washington Marine Group  
*applicant*

and

International Longshore and Warehouse  
Union and Canadian Merchant Service  
Guild  
*respondents*

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Decision No. 04-041  
November 5, 2004

This case was decided by Douglas Malanka, appeals officer.

- [1] On January 10, 2003, health and safety officers N. Teoh and C. Bishop investigated a fatal accident that had occurred on January 1, 2003 to an employee employed on the tug “Seaspan Cutless”. The officers subsequently issued 3 directions to Washington Marine Group (WMG) pursuant to subsection 145.(1) of the *Canada Labour Code*, Part II (*Code*) dated March 6, 2003, April 7, 2003 and April 23, 2003. The March 6, 2003 direction ordered WMG to ensure that all employees and supervisors were trained in the dangers of tug and barge operations. The April 7, 2003 direction directed WMG: to ensure that the health and safety at work of every employee was protected and to provide each employee with the information, instruction, training and supervision necessary to ensure their health and safety at work. The direction further instructed WMG to ensure that each employee was made aware of the safety hazards in the area where the employee worked and to ensure that employees who had supervisory or managerial responsibilities were adequately trained in health and safety and were informed of the responsibilities that they had under the *Code*. Finally, the direction instructed WMG to establish and submit to them by April 30<sup>th</sup>, 2003, an action plan outlining the action taken. The April 23, 2003 direction instructed WMG to post a statement of the employer’s general policy concerning the health and safety at work of employees by 30<sup>th</sup> April, 2003.
- [2] Washington Marine Group appealed the first direction to the Canada Appeals Office on Occupational Health and Safety on April 1, 2003 and the remaining 2 directions on April 29, 2003.

- [3] A hearing was heard on April 30, 2004 during which Mr. Trerise maintained on behalf of WMG that the directions dated March 6, 2003 and April 7, 2003 were improperly made and should be summarily rescinded without review. In an interlocutory decision dated July 29, 2004, I declined to rescind the March 6, 2003 and the April 7 2003 directions and proposed that a hearing date be established shortly to review the 3 directions.
- [4] On August 16, 2004, Mr. Trerise wrote to this Office on behalf of WGM and withdrew WMG's appeal of the 3 directions. Respondents were advised of WMG's withdrawal and did not object.

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- [5] As I have no reason for doing otherwise, I have accepted WMG's request to withdraw their appeal and have closed the file.

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Douglas Malanka  
Appeals Officer

## Summary of Decision

**Decision No.:** 04-041

**Applicant:** Washington Marine Group

**Employer:** International Longshore and Warehouse Union and Canadian Merchant Service Guild

**Key Words:** Fatality, tug, barge, pinch point, information, instruction, training, managers, supervisors, safety hazards

**Provisions:** *Code* 124, 125, 145.(1)(b) 146.1  
Regulations

### Summary:

Washington Marine Group appealed 3 directions that were issued to the Company by a health and safety officer following a fatal accident. Washington Marine Group first argued that 2 of the directions should be rescinded without further review because they were improperly made. Following the appeals officer's decision not to rescind the 2 directions, the applicant reconsidered its position and withdrew its appeals. The respondents did not object and, after consideration, the appeals officer accepted the applicants' request and closed the file.