

Canada Labour Code
Part II
Occupational Health and Safety

Logistec Arrimage Inc.
applicant

and

Montreal Dockworkers' Union
(Syndicat des débardeurs de Montreal)
respondent

Decision No. 05-057
November 28, 2005

This case was decided by Appeals Officer Katia Néron.

For the applicant

Denis Menzo, Counsel, Fraser Milner Casgrain s.r.l.

For the Union

Vincent Thomin, President, Montreal Dockworkers' Union – CUPE Local 375

Claude Léger, Health and Safety Officer – Labour Program, Human Resources and Skills Development Canada, Montreal, Quebec

- [1] This case concerns an appeal made on December 15, 2004 under the *Canada Labour Code*, Part II, subsection 146(1), by Denis Menzo, Counsel for Logistec Arrimage Inc., against two directions issued by Health and Safety Officer (HSO) Claude Léger following his investigation of an accident.
- [2] According to HSO Léger's investigation report, on November 15, 2004, dockworker François Lasalle was assigned as the "block installer" in an operation that involved moving steel plates at the Logistec Arrimage terminal in section 48 of the Port of Montreal. His job was to place a wooden block midway between the forks of a forklift and between two steel plates in a stack of steel plates while just one of these forks was

lifting a part of that stack. The block had to be placed in this position so that the forklift operator could subsequently position the forks correctly to lift the upper part of the stack. This lifting operation had to be performed because when the steel plates were first received, they had been stacked without being sorted by the client. On the day in question, the steel plates that had to be shipped were at the bottom of one of the stacks. Therefore, in order to access the plates that were to be shipped, the ones on top of them in the stack had to be moved. The method that the forklift operator had been taught for moving plates in this situation was to position his forklift at an angle to the stack, then insert the tip of just one of the forks between the bottom-most plate to be lifted and the one below it in the stack. Then he lifted the plates a bit so that the person acting as the block installer could place the wooden block between the forks and between the two plates. Just before the accident occurred, in order to put the block in place, F. Lasalle had leaned over the fork that was going to perform the lifting movement at the same time as the forklift operator began to lift six steel plates weighing a total of 17,874 kilos. The fork had been inserted only along the edge of the plates that it was lifting and it gave way, losing its grip and sliding along the edge of these plates causing them to fall back onto the ones beneath them. The fork then bounced back up, striking the employee's body on its way and throwing him about 15 feet into the air. He landed between the pile of plates and some of the building's structural steel girders. The employee died as a result of the injuries that he suffered at the work place.

- [3] Following his preliminary investigation of this accident, HSO Léger issued two directions to Logistec Arrimage Inc. The first direction, issued on November 16, 2004, ordered the employer either to correct the work procedure that the employee was following at the time of the accident or to alter the activity, before a forklift was used again to lift a load. The second direction, issued on November 17, 2004, prohibited the use of the forklift in question and required the correction of its braking system, which had been found to be defective following a mechanical inspection performed on the forklift by the firm Liftow Ltd.
- [4] On August 1, 2005, HSO Léger transmitted his final report concerning F. Lasalle's accident.
- [5] On December 5, 2005, the employer's attorney, Mr. Menzo, sent a letter to my office indicating that having reviewed HSO Léger's final investigation report, Logistec Arrimage Inc. was withdrawing its appeal of the two instructions.
- [6] Considering the written request to withdraw the appeal and having reviewed the file, I accept this request for withdrawal and declare this case closed.

Katia Néron
Appeals Officer

Summary of Appeals Officer's Decision

Decision No.: 05-057

Applicant: Logistec Arrimage Inc.

Union: Montreal Dockworkers' Union (*Syndicat des débardeurs de Montréal*) – CUPE
Local 375

Keywords: Notification of danger, directions, leaning over a fork of a forklift that is holding up a load, ineffective braking system on a forklift.

Provisions: *Canada Labour Code* – 145(2)(a), 145(2)(b) and 146(1)

Summary:

Following an accident that caused the death of a dockworker in the Port of Montreal, a health and safety officer issued two notification of danger directions to Logistec Arrimage Inc., the victim's employer at the time of the accident. The first direction ordered the employer either to correct the work procedure that the employee had been performing at the time of the accident or to alter the work activity, before the next time a lifting procedure was performed. The work procedure consisted in leaning over one of the forks of a forklift that was holding up steel plates, in order to install a block of wood between the forks. The second direction prohibited the use of the forklift in question and required the correction of its braking system, which, according to a mechanical inspection, was defective. Logistec Arrimage Inc. made an appeal against these two directions under the *Canada Labour Code*, Part II, subsection 146(1). The applicant ultimately withdrew this appeal, and the appeals officer declared the case closed.