



Canada Industrial Relations Board ● Conseil canadien des relations industrielles

File No. 26503-C

IN THE MATTER OF THE

Canada Labour Code

- and -

British Columbia Maritime Employers Association  
on behalf of its member companies, including  
DP World (Canada) Inc.; Fraser Surrey Docks  
Limited Partnership; TSI Terminal Systems Inc.;  
Cerescorp Company,



applicants,

- and -

International Longshore and Warehouse Union-Canada;  
International Longshore and Warehouse Union, Local 500;  
International Longshore and Warehouse Union, Local 502;  
International Longshore and Warehouse Union Ship & Dock Foremen,  
Local 514; International Longshore and Warehouse Union Local 517,

respondents,

- and -

Attorney General of Canada; Syndicat des débardeurs,  
Local 375 of the Canadian Union of Public Employees;  
Maritime Employers Association; Vancouver Port Authority,

intervenors.

**WHEREAS** the Canada Industrial Relations Board (the Board) has received on September 24, 2007, an application from the applicants, pursuant to section 91 of the *Canada Labour Code (Part I - Industrial Relations)*, alleging that the respondents have declared or authorized an unlawful strike and that some of the applicants' employees, represented by the respondents, had engaged in an unlawful strike;

**AND WHEREAS** the Board considered the written submissions from all parties and held a hearing in Vancouver, British Columbia, from November 5 to 8, 2007;

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**AND WHEREAS** the Board has decided that an application by the Attorney General of Canada under section 18.3(2) of the *Federal Courts Act* has removed from the Board's jurisdiction the consideration of certain issues relating to the validity of the *Marine Transportation Security Act*, S.C. 1994, c. 40, and the *Marine Transportation Security Regulations*, SOR/2004-144, May 21, 2004, as amended;

**AND WHEREAS** the Board has decided the remaining issues before it;

**AND WHEREAS** section 3(1) of the *Code* provides that a strike includes a cessation of work or a refusal to work or to continue to work by employees, in combination, in concert or in accordance with a common understanding, and a slowdown of work or other concerted activity on the part of the employees in relation to their work that is designed to restrict or limit output;

**AND WHEREAS** the Board is of the view that an unlawful strike occurred when the respondents advised those of their members requiring security clearances to refuse to apply for same and those members in concert did in fact refuse to apply.

**NOW THEREFORE**, in accordance with section 91(2) of the *Code*:

(a) The Board declares that the respondents' request that certain of their members not apply for security clearances, and the concerted refusal by said members to apply for the security clearances, constitute an unlawful strike under the *Code*;

(b) The Board orders that the respondents immediately revoke the declaration or authorization to strike and advise of such revocation immediately those members to whom it was directed;

(c) The Board orders the respondents to cease and desist from participating in the unlawful strike;

(d) The Board further orders all members of the respondents to cease and desist from participating in concert in the unlawful strike and to perform all the duties of their employment;

(e) The Board orders the British Columbia Maritime Employers Association, via its member companies, to post copies of this order at conspicuous locations in all of its affected and necessary facilities where it can be read by its employees represented by the respondents;

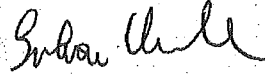
(f) The Board specifically directs that the orders and declarations found herein shall take effect on January 8, 2008;

(g) This order, upon becoming effective, shall remain in full force and effect until the conditions of section 89 of the *Code* have been met, unless it is continued, modified or revoked pursuant to an application under section 93 of the *Code*.

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**ISSUED** at Ottawa, this 20th day of December, 2007, by the Canada Industrial Relations Board.



Graham Clarke  
Vice-Chairperson

