

**IN THE MATTER OF SUMMARY DISPOSITION 2008-05**

**BETWEEN**

**BRITISH COLUMBIA MARITIME EMPLOYERS  
ASSOCIATION  
(The Association)**

**AND**

**INTERNATIONAL LONGSHORE AND WAREHOUSE  
UNION, CANADIAN AREA  
(The Union)**

<b>Job Arbitrator:</b>	<b>Ronald S. Keras</b>
<b>Counsel for the Association:</b>	<b>Ms. Eleanor (Ellie) Marynuik</b>
<b>Counsel for the Union:</b>	<b>Mr. Bob Ashton</b>
<b>Witnesses</b>	
<b>BCMEA:</b>	<b>Ms. Eleanor (Ellie) Marynuik</b>
<b>DP World:</b>	<b>Mr. Kerry Lige</b>
<b>Local 500:</b>	<b>Mr. Bob Eng</b>
<b>DP World:</b>	<b>Mr. Brendon Hull</b>
<b>In Attendance</b>	
<b>Local 500 Vice President:</b>	<b>Mr. Eric Skowronek</b>
<b>DP World, Manager, Labour Relations:</b>	<b>Mr. M.A. (Mike) McClellan</b>
<b>Local 500, Business Agent:</b>	<b>Mr. Rino Voci</b>
<b>DP World, Mgr., Safety &amp; Environment:</b>	<b>Mr. Jason Pratt</b>
<b>Hearing:</b>	<b>June 26, 2008</b>
<b>Decision Published:</b>	<b>June 30, 2008</b>

## I

The Association's issues were: ILWU and Local 500 are in violation of Article 7.01 due to an illegal slow down and that the Union instructed its members not to work shift extensions which is in contravention of Article 21.04.

The Association sought an Arbitral order directing the Canadian Area and its locals to cease the slow down. The Association also sought an Arbitral order directing the Union to instruct its members to comply with the directive of the Job Arbitrator to resume normal operations.

The Association also advised that it reserved its rights to seek damages.

The Union's position was that if there was a reduction in productivity it was as a result of the implementation of the Employer's new procedure for Top Pick handling of containers as they come off the vessel.

## II

Ms. Marynuik, on behalf of the Association, produced documents which graphically annotated production rates prior to the implementation of the new procedure compared to production rates for June 24<sup>th</sup>, 25<sup>th</sup> and 26<sup>th</sup>, 2008. Production rates for Top Picks for June 24 – 26 were approximately 68% of the average daily production for June 1<sup>st</sup> through June 23<sup>rd</sup>, 2008.

Association witness and Director, Operations Development, Mr. Kerry Lige described the Employer's initiative and in cross-examination advised that while the new process may have caused some minor productivity losses initially it could not account for the extent of productivity losses.

Mr. Hull recounted his conversations with Business Agent, Mr. Voci, concerning the Employer's need for a four hour extension for the vessel Yang Ming Zenith. Mr. Hull advised that all employees refused to work the extension.

Union witness and Top Pick driver Mr. Bob Eng described the difficulties with the new procedure. He said under the old procedure drivers computers would list five (5) transactions and under the new system it listed thirty (30). Mr. Eng described other problems such as computer freeze and the challenge of deciding priorities when there are thirty (30) choices on the screen.

### III

The Association argued that the Union members were on a deliberate slow down and while the new Top Pick process may have caused some minor productivity losses it was the slow down that caused major productivity losses and associated costs in particular with respect to the vessel Yang Ming Zenith.

The Union relied on Mr. Eng's testimony about the serious problems associated with going from computer screens with five (5) transactions to screens with thirty (30) transactions under the new process. Mr. Eng also said when he asked foremen or supervisors about which transactions were the priority, they didn't know.

## IV

I am satisfied, from the evidence that the new procedure likely resulted in some delays during the implementation period. The difficulty with the Union's position is that the implementation of the new process for Top Pick drivers can not account for the extent of the productivity losses. I am therefore equally satisfied that a significant portion of the productivity loss was as a direct result of a deliberate slow down by some or all of the ILWU members working at DP World on June 24<sup>th</sup>, 25<sup>th</sup> and 26<sup>th</sup>, 2008. Such activity was a violation of Article 7.01 which reads:

The Union agrees that during the term of this Agreement there will be no slowdown nor strike, stoppage of work, cessation of work, or refusal to work or to continue to work.

In the result, the Association's issue succeeds and the following directives are issued:


The Canadian Area, its locals and their members are to cease the slow down;

The Union is to instruct its members to comply with the directive of the Job Arbitrator to resume normal operations.

All of which is so ordered.

I thank counsel for their helpful submissions.

Dated in Vancouver, British Columbia this 30th Day of June 2008.



Ronald S. Keras  
Job Arbitrator

File: 485