

Occupational Health
and Safety Tribunal Canada



Tribunal de santé et
sécurité au travail Canada

Ottawa, Canada K1A 0J2

Case No.: 2007-08
Decision No.: OHSTC-09-033(I)
Interlocutory Decision

CANADA LABOUR CODE
PART II
OCCUPATIONAL HEALTH AND SAFETY

DP World (Canada) Inc.
Appellant

and

International Longshore & Warehouse
Union, Local 500
Respondent

September 23, 2009

This is an interlocutory decision rendered by Michael Wiwchar, Appeals Officer.

For the appellant

Mr. Thomas Roper, counsel, Roper Greyell LLP

For the respondent

Ms. Leah Terai, counsel, Laughton & Company



Ottawa, Canada K1A 0J2

By facsimile and priority post
604.806.0933 & 604.683.6622

September 23, 2009

Case name: DP World (Canada) Inc. v.
International Longshore & Warehouse Union, Local 500
Case No.: 2007-08

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Subject: Application to extend and vary stay - Decision #: OHSTC-09-027(S)
Application to adjourn hearing, September 29 and 30, 2009

Mr. Roper and Ms. Terai,

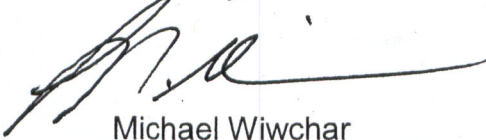
This ruling is in regards to the appellant's applications dated August 26, 2009, and the teleconference of yesterday during which the respondent confirmed their consent to the said applications as stated in a letter dated September 9, 2009.

The parties are hereby notified that the applications to have the order to stay the direction issued by Health and Safety Officer D'Sa dated April 25, 2007, be extended and varied and is granted subject to the conditions itemized below. Consequently, the hearing scheduled for September 29 and 30, 2009, is adjourned.

1. The stay will be varied in accordance with all the conditions, measures and procedures stipulated in the application made by the appellant's counsel, Mr. Roper, dated August 26, 2009, and the recommendations in the report titled "Evaluating the Safety of Grain – Loading Through Cement Holes – Phase Three" dated August 20, 2009, prepared by Genesis Engineering Inc.
2. The employer or his representative will notify each of the following before each incident of testing takes place:
 - a) Transport Canada Marine;
 - b) The Union and the Local; and
 - c) The officers of the ship on which testing is to take place

3. The stay is extended until the hearing scheduled for January 13 and 14, 2010, for which the parties are notified.
4. The employer will provide a brief written progress report of the testing to the undersigned Appeals Officer at the end of each month beginning October 2009.
5. The employer may renew the application for an extension to the stay subject to a review of the circumstances at the time of the application by the undersigned Appeals Officer.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Wiwchar', with a long horizontal flourish extending to the right.

Michael Wiwchar
Appeals Officer

c.c. Philip D'Sa