

Date: 20080821

Docket: A-411-08

Citation: 2008 FCA 246

Present: PELLETIER J.A.

BETWEEN:

**BRITISH COLUMBIA MARITIME EMPLOYERS
ASSOCIATION AND DP WORLD (CANADA) INC.**

Applicants

and

**INTERNATIONAL LONGSHORE AND
WAREHOUSE UNION, LOCAL 500**

Respondent

Heard by teleconference between Ottawa, Ontario, and Vancouver,
British Columbia, on August 21, 2008

Order delivered at Ottawa, Ontario, on August 21, 2008.

REASONS FOR ORDER BY:

PELLETIER J.A.

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REASONS FOR ORDER

PELLETIER J.A.

[1] The basis of the applicants' motion for an interlocutory injunction is that the two Board members who conducted an investigation and prepared a report to be submitted to the Board acquired information and heard submissions in the absence of the other. The applicants characterize this as a breach of natural justice because neither party can know what the other Board member heard in their absence and therefore are unable to know the case they have to meet.

[2] The flaw in the applicants' argument is that the evidence which is to be put before the Board is the report itself. Both parties will receive a copy of the report and will be offered the opportunity to make whatever arguments they deem appropriate as to its reception or its probative value. I

surmise that the applicants' real fear is that the Board members who conducted the investigation will not limit themselves to the information contained in the report in conducting their deliberations. That question is not before me though I note that the Board has left the matter of the members' status open for further submissions.

[3] In the end result, I find that there is no serious issue raised by the underlying application for judicial review. I would add that, as the jurisprudence of this Court has repeatedly made clear, motions of this nature are premature and will only be entertained in the most extraordinary circumstances, which is not the case here.

[4] The motion will be dismissed with costs.

“J.D. Denis Pelletier”

J.A.

FEDERAL COURT OF APPEAL
NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-411-08

STYLE OF CAUSE: *British COLUMBIA MARITIME
EMPLOYERS ASSOCIATION
AND DP WORLD (CANADA)
INC. and INTERNATIONAL
LONGSHORE AND
WAREHOUSE UNION, LOCAL
500*

PLACE OF HEARING: Heard by teleconference between
Ottawa, Ontario and Vancouver,
British Columbia

DATE OF HEARING: August 21, 2008

REASONS FOR ORDER BY: PELLETIER J.A.

DATED: August 21, 2008

APPEARANCES:

Donald Jordan, Q.C. FOR THE APPLICANTS
Roslyn Goldner

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