



International  
**LONGSHORE & WAREHOUSE UNION**

**SEPTEMBER 21, 2011**

## **LOCAL 500 BULLETIN**

### **Working Without ILWU Local 514 Supervision**

In May 1994 the Longshore Collective Agreement had been signed with the BCMEA but the Foremen were still negotiating theirs. One of the new provisions of the 1994 contract was the half hour meal period on the day shift. While Longshore was obligated to abide by this provision of the new contract the foremen were still under the terms of their old agreement and were taking an hour for lunch.

Because of an alleged illegal work slowdown, work stoppage, refusal to work and/or strike during the period of 12:30 p.m. – 1:00 p.m. we ended up in front of the Job Arbitrator.

The employer complained to the Arbitrator that in the half hour between 12:30 and 1 p.m. their operations were being disrupted by Longshore workers who were involved in a concerted effort to impede production.

The Union testified to their efforts to ensure that the new provisions were implemented as smoothly as possible. Our evidence was that Business Agents and Officers of the Union visited work sites and instructed our Members to report to work on time, to work and take direction from superintendents and managers in the absence of foremen.

The Job Arbitrator wrote in his decision:

“From the evidence, I am satisfied that a number of factors affected productivity during the subject times. I accept that where one employer representative takes over for three foremen that there may be productivity impacts. I also accept that safety, equipment problems and other factors impact production and that such is normal circumstances in the day to day waterfront environment . . .

It is reasonable to conclude, however, that the above factors do not account for the degree of impeded production described by Association witnesses and in the main unrefuted by the Union . . . What does account for much of the impeded production is the concerted action of employees.

In the result, this Summary Disposition directs employees covered by this Collective Agreement to cease all activities which are contrary to the provisions of Article 7.01, and further, the Union is directed to instruct its members to comply with this direction and to resume normal operations.”

Therefore, if any Member of Local 500 is on a job without a Local 514 foreman the Union advises you to abide by the direction of the Arbitrator and by the provisions of Article 24 which says, “Employers, their Foremen **or their Agent** shall decide as to . . . the manner in which the work is to be performed.”

If you have a question about the person’s qualifications to safely supervise a longshore operation please refer to the provisions of Article 7.03 of the Collective Agreement and Rules #103 and #104 of the White Safety Book.

The actions or inactions of a person supervising a longshore operation are also subject to section 217.1 of the *Canada Criminal Code*.

The duty found in section 217.1 of the Criminal Code requires that “everyone who undertakes, or has the authority to direct how another person does work or performs a task, is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task”. “Everyone” includes **individuals**, organizations as broadly defined, and corporations. For individuals, the maximum penalty for criminal negligence causing death is life imprisonment, and the maximum penalty for criminal negligence causing bodily harm is ten years’ imprisonment.

Local 500 Officers