Supreme Court of Canada Confirms Fine Against Company in Forest Worker's Death

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A recent decision by the Supreme Court of Canada confirmed the broad powers of the B.C. Workers Compensation Board to adopt and enforce regulations under the *Workers Compensation Act* (the"Act") in order to promote workplace health and safety.

Background

A tree faller was fatally struck while working within the area of a forest licence held by West Fraser Mills Ltd. ("West Fraser"). The tree faller was employed by an independent contractor, not West Fraser, and also reported to and was supervised by the contractor. However, as the licence holder, West Fraser was the "owner" of the workplace as defined under the Act. The Workers Compensation Board ("Board") investigated the incident and found that the tree was dangerous and should have been removed before the work began.

Under section 225 of the Act, the Board has broad powers to enact rules about workplace safety that it considers "necessary and advisable in relation to occupational health and safety and occupational environment." Different parties, including "owners" and "employers," have specific responsibilities. Pursuant to section 225 of the Act, the Board adopted a regulation that imposed a duty on owners to ensure that forestry operations are planned and conducted in accordance with the regulation and safe practices acceptable to the Board (the "Regulation").

The Board found that West Fraser failed as an owner to ensure safe work practices, in violation of the Regulation. The Board also found the company to be an employer under the Act, even though it was not the employer of the faller. Under the Act, only an "employer" could be fined. The Board imposed a fine of $75,000 on the company.

West Fraser appealed to the Workers' Compensation Appeal Tribunal ("Tribunal"). The company argued that the Act did not allow the Board to adopt the Regulation about workplace owners, and as a result, there could be no finding of *owner* misconduct as a basis for a fine. West Fraser also argued that there was no basis to fine it because it was not the tree faller's employer. The Tribunal rejected the arguments, but reduced the fine. The decision was upheld by the B.C. Supreme Court and Court of Appeal.

Supreme Court of Canada Decision

The issue before the Supreme Court of Canada was whether the Regulation represented a reasonable exercise of the Board's delegated authority. Writing for the majority, McLachlin J. confirmed the Tribunal's decision and the fine. She concluded that the Board had acted reasonably in adopting a regulation to respond to increased deaths in the forestry sector. The Board was free to interpret the legislation in a way that furthered the goal of promoting workplace health and safety and deterring future accidents.

In relation to imposing the fine, McLaughlin J. noted that the Tribunal's interpretation was responsive to the reality that maintaining workplace safety is a complex exercise involving shared responsibilities of all parties involved. She found that while an administrative penalty can be imposed based on an employer's failure to comply with its particular obligations as an "employer" under the Act, it was not limited to such circumstances. The legislation focused not on the specific relationship between the employer and the victim of a workplace accident, but rather on the relationship between an employer and the worksite that led to the accident or injury. In this case, the Tribunal found a relationship between West Fraser and the safety of the worksite. In doing so, the Supreme Court of Canada confirmed the broad powers of the Board to hold owners responsible for workplace accidents under the Act.

By

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