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Releases

Insulators Union and BC Fed relieved BC Court of Appeal unanimously overturns BC Supreme Court decision that WorkSafeBC safety laws too “complex” to follow in dismissing contempt of court case against asbestos removal firms, owner over hundreds of safe

Vancouver – The BC Insulators Union and the BC Federation of Labour are extremely relieved the BC Court of Appeal has unanimously overturned a February 2016 BC Supreme Court ruling that WorkSafeBC laws protecting asbestos removal workers from the deadly substance were too “voluminous and complex” to enforce.

The BC Court of Appeal this month overturned a Supreme Court decision of February 2016 that dismissed a contempt of court application against Seattle Environmental, a BC firm which has repeatedly breached health and safety laws and faces over $355,000 in fines for violations between 2013 and 2015, owner Manoj [Mike] Singh and son Shawn Singh. Mike Singh was also a principal in Skylite Building Maintenance, another firm with a long record of asbestos safety law violations and over $200,000 in WorkSafeBC fines.

“This is an incredible relief to not only asbestos removal workers who need maximum safety protection to deal with the number one workplace killer in BC but all workers dependent on our health and safety laws to prevent workplace deaths and injuries,” said BC Insulators Union Business Manager Lee Loftus – who also suffers from workplace asbestos exposure.

“If the original BC Supreme Court decision that WorkSafeBC laws designed to protect workers and the public from this deadly substance had not been overturned, the number of people put at risk would have been disastrous,” Loftus said. “In 2015, asbestos killed 42 workers in BC and likely more in 2016 – this is the most dangerous product workers can handle – and safety is essential.”

BC Federation of Labour President Irene Lanzinger echoed Loftus’ concerns, saying that: “Allowed to stand, the earlier ruling would have created an open season on worker health and safety. “So we are comforted that the Court of Appeals reinforced employers’ responsibility to abide by health and safety laws.”

“But there’s a bigger problem still to address because the Christy Clark government simply isn’t doing enough to keep workers safe on the job,” Lanzinger says.

The BC Insulators Union and the BC Federation of Labour are again calling on the provincial government to immediately introduce legislation this spring session of the BC Legislature to force asbestos removal firms to be registered in order to operate in BC, a mandatory requirement in other jurisdictions such as Washington state, England and Australia, Loftus said.

“We need legislation to allow authorities to immediately pull the business license of any firm found to be violating asbestos removal safety laws – because they are not only putting their workers’ lives at risk, they are also putting neighbours and anyone coming close to an asbestos removal site in danger,” Loftus said.

“Seattle Environmental – despite all its WorkSafeBC safety law violations and hundreds of thousands of dollars in fines – is still operating today because we have no licensing requirements and WorkSafeBC is force to go through the courts to get enforcement orders – that’s way too slow when lives are at risk and that’s why other jurisdictions demand asbestos removal firms be licensed,” he

added.

Lanzinger said the asbestos removal laws are inadequate because the BC Liberal government has failed to respond to demands for change from both unions and companies in the industry.

“They failed to act on practical solutions that unions proposed to protect the well-being of workers in the asbestos abatement industry. Workplace protections are weak and not always rigorously enforced,” she says.

“Under the BC Liberals, workers are only an afterthought in our ‘workers’ compensation system,” Lanzinger added.

Loftus said the original BC Supreme Court decision last year brought dismay to his members and others concerned about worker health and safety, adding he is very pleased WorkSafeBC appealed the ruling and won.

In his BC Supreme Court decision of February 2016 on the contempt of court application, Justice George Macintosh ruled that: “In my view, it is a practical impossibility for the Respondents in this case to know with any clarity what it is they are to refrain from doing.”

But BC Court of Appeal Justice John E.D. Savage, writing the decision agreed to by Justices S. David Frankel and David C. Harris, wrote:

“[86] While the Act and Regulation may have some complexity, the persons to whom they apply voluntarily engage in a business for profit in a highly regulated area, and do so on the understanding that they must comply with the Act and Regulation. The Act and Regulation are concerned with workplace safety. Requiring familiarity and understanding of statutory and regulatory requirements for workplace safety from voluntary industry participants is not an impermissibly onerous requirement. This is especially so, given the nature of the business in this case.”

Justice Savage also agreed that the case was precisely made for a contempt of court application:

“[99] In my view, it was precisely situations like the one at bar, where the alleged contemnors have a long history of breaches of the regulatory regime, that the legislature provided this avenue for court-ordered injunctive relief to ensure regulatory compliance.”

Loftus said he understands a new contempt of court application against the Singhs and Seattle Environmental will proceed later this year.