

CANADA / JUDGMENT

British Columbia (Workers' Compensation Board) v. Barring

2020 BCSC 1174

COURT

Supreme Court of British Columbia

DECIDED

11 August 2020

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2020 BCSC 1174 British Columbia (Workers' Compensation Board) v. Barring

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

British Columbia (Workers' Compensation Board) v. Barring,

2020 BCSC 1174

Date: 20200811

Docket: S198761

Registry: Vancouver

Between:

Workers' Compensation Board

Petitioner

And

Harpreet Singh Barring

Respondent

Corrected Judgment: The text of the judgment was corrected at paragraph 27 on August 21, 2020

Before: The Honourable Madam Justice Iyer

Oral Reasons for Judgment

Counsel for the Petitioner:

A.K. Sandhu

D. Eleff

Counsel for the Respondent:

S. Singh

Place and Date of Hearing:

Vancouver, B.C.

July 13, 2020

Place and Date of Judgment:

Vancouver, B.C.

August 11, 2020

OVERVIEW

[1] In this proceeding, the Workers' Compensation Board ("Board") seeks a court order permanently prohibiting Harpreet Singh Barring from carrying on business in the asbestos abatement industry.

[2] Section 97(1) of the Workers Compensation Act, R.S.B.C. 2019, c. 1 ("Act") empowers this court to grant injunctions. Section 97(1) was enacted in 2019 as part of a general update of the Act and it replaces the former s. 198(1). It was not intended to change the law under s. 198(1) and neither party suggested that it does.

[3] Section 97(1) of the Act provides for three types of injunctions:

97(1) On application of the Board and on being satisfied that there are reasonable grounds to believe that a person

- (a) has contravened or is likely to contravene the OHS provisions, the regulations or an order, or
- (b) has failed to comply with, or is likely to fail to comply with, the OHS provisions, the regulations or an order,

the Supreme Court may grant an injunction,

- (c) in the case of paragraph (a), restraining the person from continuing or committing the contravention,
- (d) in the case of paragraph (b), requiring the person to comply, or
- (e) in the case of paragraph (a) or (b), restraining the person from carrying on an industry, or an activity in an industry, within the scope of the compensation provisions for an indefinite or limited period or until the occurrence of a specified event.

- [4] Proof on the standard of "reasonable grounds to believe" is lower than proof on the standard of the balance of probabilities. The evidence must provide an objective basis for the belief based on compelling and credible information: *Workers' Compensation Board of British Columbia v. Skylite Building Maintenance Ltd.*, 2019 BCSC 231 at para. 149.
- [5] While the standard of proof is the same for all of these statutory injunctions, granting a permanent injunction under s. 97(1)(e), which is what the Board seeks in this case, is reserved for egregious or repeat violators where a more specific injunction will not be sufficient: *Skylite* at para. 160; *British Columbia (Workers' Compensation Board) v Ace Environmental Services Ltd.*, 2019 BCSC 849.
- [6] Mr. Barring does not dispute the law. That means that the single issue in this case is whether the Board has provided sufficient credible and compelling information to warrant permanently prohibiting Mr. Barring from working in the asbestos abatement industry. For the following reasons, I find that it has.

DISCUSSION

- [7] Mr. Barring was the director of 3D Environmental Groups Ltd. ("3D"), an employer that was registered with the Board in the asbestos abatement classification from 2012 to 2019, when its registration was cancelled because the Registrar of Companies had dissolved 3D.
- [8] Mr. Barring's spouse, Mandip Kaur Barring, is the director of Brick Environmental Consulting Ltd. ("Brick"), which has been registered with the Board since 2013. The Board has classified Brick as engaged in building demolition.
- [9] Gurpreet Singh Sandhu is the director of Happy Demo Ltd. ("Happy Demo"), which was registered with the Board in asbestos abatement from April 2019 to December 2019, when its registration was cancelled because the Board determined that it was no longer active in BC.
- [10] The Board has determined that 3D, Brick, and Happy Demo are affiliated companies. The affiliation of Brick and 3D arises from the spousal relationship between the respective directors of each of these companies. With respect to Happy Demo, during its classification review, the Board found that Mr. Sandhu had no knowledge of Happy Demo's business operations. It determined that Mr. Barring controlled Happy Demo and was active in its asbestos abatement activities. Mr. Barring did not dispute this determination.
- [11] On February 2, 2018, this court granted injunctions against Mr. Barring and 3D under ss. 198(1)(a) and (b) of the Act (now ss. 97(1)(a) and (b)), restraining them from committing contraventions of the Act and requiring them to comply with the Act: *British Columbia (Workers' Compensation Board v. 3D Environmental Groups Ltd.*, 2018 BCSC 2525 ("2018 Order"). Prior to this, the Board had also required 3D and Mr. Barring to file compliance reports and provide due diligence documentation. Despite repeated requests, 3D and Mr. Barring did not comply with the Board's directives.

- [12] In July 2018, Peter Yang, a Board inspector, visited a worksite at 3865 Forest Street in Burnaby, BC. He determined that Brick was the employer of the workers there. He spoke to Ms. Barring, the director of Brick, and she told him that Mr. Barring was managing the project. Mr. Yang spoke with Mr. Barring. None of Mr. Barring, Ms. Barring, or Brick provided Mr. Yang with the documentation he required to complete his investigation. Mr. Yang found that Brick and Ms. Barring, as its director, had violated a number sections of the Act, including possible exposure of their workers to asbestos. As a result, in November 2018, the Board imposed an administrative penalty against Brick and Ms. Barring of \$2,500.
- [13] Brick and Ms. Barring failed to comply with the compliance orders Mr. Yang had issued, despite subsequent requests from Mr. Yang and a meeting between Mr. Yang and Mr. Barring. As a result, the Board imposed a second administrative penalty against Brick and Ms. Barring in January 2019.
- [14] On January 15, 2019, Jeff Clare, a Board inspector, visited a worksite at 13510 91st Avenue in Surrey, BC, at which a company called Expert Hazmat Ltd. was performing asbestos abatement work. Mr. Clare asked the workers at the site for the name of their supervisor. A worker said their supervisor was Mr. Barring but that he was not at the site. The worker called Mr. Barring. When Mr. Barring came to the site, Mr. Clare spoke with him about the safety concerns.
- [15] Mr. Clare also interviewed the workers and deposes as follows:
- I began to ask the workers about their work experience, to which the workers looked to Mr. Barring for answers. During my questioning of the workers on their experience and training, Mr. [B]arring interrupted and knew the details of training, training provider and length of time each worker was employed with Expert Hazmat. Of five workers, only two workers indicated that they had training, though this was unconfirmed. The workers['] experience ranged from two years to 3 months in the asbestos abatement industry.
- [16] Mr. Clare's contemporaneous handwritten notes confirm his account of his inspection.
- [17] Mr. Clare found a high risk of worker exposure to asbestos and issued a stop work order. He also found that Mr. Barring had personally violated what was then s. 117(1)(a) of the Act, which requires supervisors to ensure the health and safety of all workers under their direct supervision, and issued a non-compliance order to Mr. Barring.
- [18] In September 2019, Mr. Clare inspected a worksite at 11875 86 Avenue in Delta, BC, for which Happy Demo had completed a hazardous materials survey. Mr. Clare determined that the survey did not include adequate samples of the material to be removed. He noted that the telephone number on that survey was that of Ms. Barring. He left a voicemail for her and also called Mr. Barring. Mr. Barring agreed to collect additional samples, but later informed Mr. Clare that the building had been demolished before he could take them. Mr. Clare issued a stop work order. Subsequent analysis of the debris pile revealed that asbestos was present. This meant that Happy Demo had not complied with the Act. Happy Demo did not respond

to Mr. Clare's subsequent request for documentation of its due diligence in the work it did at the site. Based on Mr. Clare's report and recommendation, the Board issued an administrative penalty against Happy Demo in November 2019.

- [19] On October 8, 2019, this court granted injunctions against Brick and Mandip Kaur Barring (Mr. Barring's spouse) under the former ss. 198(1)(a) and (b) of the Act, restraining them from committing contraventions of the Act and requiring them to comply with the Act. The evidence before the court included six prior administrative penalties ranging from \$1,000 to \$2,500 and dating from September 2014 to December 2018.
- [20] In his affidavit, Mr. Barring deposes that he has not been personally involved in asbestos abatement work since January 2018. He denies that he did any work at 3865 Forest Street in Burnaby, BC. He acknowledges that he is the manager of Brick, but states that he simply provides estimates to prospective customers and does not perform or supervise any asbestos abatement work. He denies any involvement with Expert Hazmat Ltd. in connection with the January 15, 2019 inspection. Mr. Barring denies that he was the supervisor of the abatement work at the 91st Avenue property and says he simply went there as a favour to Mr. Sandhu. Mr. Barring also states that he is upgrading his skills in asbestos abatement. The refresher training certificates from 2017 and 2018 attached to his affidavit have all expired.
- [21] In his submissions, Mr. Barring relied exclusively on his own affidavit, asserting that I should prefer it to the evidence of Mr. Clare and Mr. Yang. Mr. Barring says that the only order before me exclusively concerns Expert Hazmat Ltd., not him. He also submitted that the only remedy available to the Board is contempt of the 2018 Order and the Board cannot seek an injunction under s. 97(1)(e) because the matter is *res judicata*.
- [22] The evidence presented by the Board shows a pattern of behaviour dating back to 2014 by Mr. Barring and entities with which he is associated of unsafe work practices that have exposed workers to the risk of exposure to asbestos fibres while performing asbestos abatement and/or demolition work. There is uncontroverted evidence that 3D, Brick, and Happy Demo are affiliated employers. The documentary evidence establishes that the Board representatives had personal contact with Mr. Barring on numerous occasions when investigating possible contraventions, and that Mr. Barring has persistently failed to respond to compliance orders or provide due diligence documentation. He or the entities with which he is associated have been subject to numerous administrative penalties. This Court has previously granted two injunctions against these entities, one of which named Mr. Barring personally.
- [23] In the face of this evidence, Mr. Barring's denials are not credible or reliable.

- [24] The Board's evidence is credible and compelling. It satisfies me that Mr. Barring has repeatedly violated the Act by engaging in unsafe work practices for asbestos abatement. It is well known that asbestos exposure is a serious workplace hazard. There is no evidence to suggest that he will change his behaviour. I find that is the sort of egregious case for which s. 97(1)(e) was intended.
- [25] While the Board could have chosen to pursue Mr. Barring for contempt of the 2018 Order, that was not its only option. Section 97(1)(e) is available where a previous injunction or injunctions under subsections (a) and/or (b) have not been effective. The matter is not res judicata, because the court is reviewing the entire pattern of conduct, not only what was before the court in the previous petitions. It is all of that conduct, which includes incidents post-dating the injunctions, considered as a whole that forms the basis for granting the relief now sought.
- [26] I take into account Mr. Barring's statement that granting the injunction will cause him financial hardship. However, his consistent failure to conduct asbestos abatement work in compliance with the Act has exposed numerous workers to a serious health risk. This gives me reasonable grounds to believe that he is unwilling or unable to change.

CONCLUSION

- [27] In conclusion, I grant the Board's petition. Pursuant to s. 97(1)(e) of the Act, Mr. Barring is restrained indefinitely from carrying on business and/or any activity in the asbestos abatement industry, including conducting hazardous materials inspections.
- [28] The Board shall have its costs of the petition.

"Iyer J."

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Prepared on 24 October 2026 · Esheria