

SUPREME COURT OF CANADA



Case in Brief: *West Fraser Mills Ltd. v. British Columbia (Workers' Compensation Appeal Tribunal)*

2018 SCC 22 | Judgment of May, 18 2018 | On appeal from the Court of Appeal for British Columbia

The Supreme Court has confirmed a fine against a lumber company whose inaction led to a forest worker's accidental death.

In 2010, West Fraser Mills hired an independent contractor to cut down “trap trees” to reduce the beetle population on its property. (“Trap trees” are dead trees used to lure insect pests; the trees are then cut down and destroyed.) The contractor, in turn, hired a “faller” (tree-cutter) to do the work. The faller reported to and was supervised by the contractor. The faller was struck by a falling tree, and later died. An investigation found that tree was dangerous and should have been removed before the work began.

British Columbia, like other provinces, has a workers' compensation scheme to prevent and deal with workplace injuries and deaths. Under the *Workers Compensation Act*, the government gave the Workers' Compensation Board of British Columbia broad powers to make rules about workplace safety. Different actors, including “owners” and “employers,” have different responsibilities.

In this case, the Board found that West Fraser Mills failed as an “owner” to ensure safe work practices. This violated a workplace safety regulation the Board had adopted. The Board also found the company was an employer, although not the employer of the faller. Under the Act, only an “employer” could be fined. The Board fined West Fraser Mills \$75,000.

West Fraser Mills appealed to the Workers' Compensation Appeal Tribunal. It argued that the legislation did not allow the Board to adopt this particular regulation about workplace owners. Therefore, there could be no finding of *owner* misconduct as a basis for a fine. West Fraser Mills also argued that because it was not the faller's employer, and only employers could be fined, there were no grounds to fine it. The Tribunal rejected the arguments, but reduced the fine based on the company's safety record and because it did not purposely disregard safety standards. The decision was upheld by the B.C. Supreme Court and Court of Appeal.

Then-Chief Justice Beverley McLachlin, writing for the majority at the Supreme Court of Canada, confirmed the Tribunal's decision and the fine. She said that the Board acted reasonably in adopting a regulation to respond to increased deaths in the forestry sector. In her view, the Board was free to interpret the legislation in a way that better supported the goal of promoting safety, including adopting a regulation targeting owners. A more narrow approach would undermine this goal. Finally, she said that the Board had the authority to impose the fine. This was in part because West Fraser Mills employed individuals on the site in question. Five judges agreed with Chief Justice McLachlin.

Justice Suzanne Côté, writing in dissent, would have allowed West Fraser Mills' appeal. She said that the Board did not have the authority to adopt this particular regulation or to impose a fine that applied to employers on a company that only breached its obligations as an owner.

Justices Russell Brown and Malcolm Rowe also dissented, in separate reasons. They agreed with the majority that the Board had the authority to adopt the regulation, but would have allowed the appeal against the fine for the same reasons as Justice Côté.

This case involved courts' review of an administrative tribunal's decision. It confirmed that courts should generally defer to administrative bodies (like the Board) when those bodies are given wide authority to make regulations.

For more information (case no. 37423):

- [Reasons for judgment](#)
- [Case information](#)
- [Webcast of hearing](#)

Breakdown of the decision:

- Majority: [McLachlin](#) C.J. ([Abella](#), [Moldaver](#), [Karakatsanis](#), [Wagner](#) and [Gascon](#) JJ. concurring)
- Dissenting (separate reasons): [Côté](#) J., [Brown](#) J. and [Rowe](#) J.

Lower court rulings:

- Court of Appeal for British Columbia ([appeal judgment](#))
- Supreme Court of British Columbia ([application for judicial review](#))
- Workers' Compensation Appeal Tribunal ([administrative appeal](#))
- Workers' Compensation Board of British Columbia (order and review, not available online)

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