

## Dusty Kelly, union official

Dusty Kelly worked in the film industry for ten years as a scene painter for films like *Juno* (2007) before becoming a union organizer in 2007. She is now vice president for IATSE Local 891 in Vancouver. In this conversation, Kelly discusses the challenges of running a local union in a highly competitive, globalized industry. Although Canadian studios have been criticized for luring jobs away from Hollywood, she provides an alternative perspective.

*Can you give us some background on Local 891?*

Local 891 is the fourth-largest IATSE local union. We're the largest local in Canada, and we represent motion picture technicians, artists, and craftspeople who work in twenty-three departments in Vancouver and all over British Columbia. We were chartered in 1962, so we've been around for quite a long time.

*When did Local 891 see its biggest period of growth?*

Our growth came in waves. I think it was a very small local until the late 1980s, when membership spiked a bit. There was definitely a spike in membership from the early to mid-1990s. In 1992 we probably had about 1,900 members. From that point until now, we've grown to more than 5,000 members.

*What do you think contributed to that growth?*

There are a number of factors. The currency exchange rate in the 1990s was extremely favorable and continued to be favorable for quite some time. At its low point in 2002, the Canadian dollar was about 65 cents to the US dollar. Another factor that contributed to growth was the fact that we were the first jurisdiction outside of Los Angeles to negotiate collective agreements directly with the Alliance of Motion Picture and Television Producers. A majority of work done here is indeed studio work, so we created a relationship very early in the process, around 1995 or 1996, by forming a film council to negotiate directly with the studios. Then we created the master agreement, which created an air of certainty. And of course the tax credits have helped.

*You said you have twenty-three departments in your jurisdiction. Is membership more heavily concentrated in certain departments?*

The construction department—which includes carpenters, scenic carpenters, sculptors, and lighting—is significant. Following that would be grips, the paint department, and set decorators. Costume is a pretty big department as well.

*Does that list illustrate the types of jobs that are most common in Vancouver?*

Yes, we're known for big-build shows. The size of the soundstages at studios in Vancouver allows us to accommodate projects that require large indoor facilities, which has been a major part of our business. Right now, *Night at the Museum: Secret of the Tomb* (2014) occupies every square inch of Mammoth Studios, which is thousands of square feet. Even given the rising importance of visual effects, we are still known for big-build productions.

*Most of the jobs you mentioned are craft or trade occupations. Are there job categories that haven't been unionized?*

We're highly unionized here in British Columbia. Ninety-nine percent of all production is union. There's the Director's Guild of Canada, BC District Council, Union of BC Performers, Teamsters Union Local No. 155, the International Cinematographers Guild IATSE 669, and the Canadian ACFC West. So union labor covers most productions. Yes, there is stuff that flies under the radar, but anything of midrange significance or above is definitely covered.

*When did you become interested in organizing VFX artists and workers, and why?*

I came on as an organizer with the local union when nonunion production was occurring in town. This was around 2006 when *Battlestar Galactica* (2004–9)

was being made. There was an in-house visual effects crew, and it started reaching out to the local about working under a union contract. The employees were working extraordinarily long hours and not being paid in the same manner as other crews working on the show, so we negotiated. According to the collective agreement, certification applies to all in-house visual effects crews. So when a production hires an in-house or on-set team, they should be part of the collective agreement: supervisors, data wranglers, compositors, animators, and so on.

Producers soon decided to subcontract that work, which was their right within the collective agreement. VFX companies from L.A. also started to open up satellite offices in Vancouver. This was the beginning of the big migration of visual effects companies. Artists, of course, started calling me and talking to me about the issues they were having, and I recognized that we needed to do something about this. I made a presentation to our executive board, and we decided to go ahead with organizing visual effects artists. We officially announced this in the fall of 2010 or the spring of 2011.

*How many shops would you estimate there are?*

There are more than thirty.

*And how many workers would you estimate?*

It fluctuates. If you're going to include the animation houses, a couple of those have about three hundred employees each. Overall, it might be as many as two thousand workers at any given time. It depends on the day. You look at Sony Pictures Imageworks, their animation has gone down to about eighty people right now from a high of three hundred. There's a finite group of workers, and they move around between companies. I think 1,500 is a fair estimate.

*Are animation workers and VFX workers separate within Local 891, or do they fall into the same department?*

We cover live action within our contract, so VFX is part of the live-action component. However, the status of animation houses that are completely focusing on CG animation is something that has yet to be determined. The animation and VFX workers have many skills in common that would facilitate one department, a VFX-CGI department. This would not limit their employment to one or the other.

What's happening with visual effects houses is that they are not hiring employees for long periods of time anymore. They are hiring people on a project-by-project basis, which is the same way we work in live-action productions. They are hired for

the show, not for the company. When they are done they move on to another project. Each province in Canada has its own labor code, and there is no national labor relations board. We have to work within the confines of the BC code and only organize within a specific company. You can't do a broad-based organizing drive. So, in essence, you would be creating shop contracts. It has to be company by company, which is one of the obstacles to getting VFX artists organized.

*Overall, what are the most significant issues in trying to organize VFX workers?*

It's truly interesting. It runs the gamut. You can be speaking to people right out of school or who have just a couple of years in the industry. You also run into workers midway through their careers or workers with eight or ten years in the industry, or they could have been in the industry long term. Of course, based on where they're from and what work they're doing, they all look at unionizing differently. There's always a concern about being paid proper overtime. It's a big issue. Another issue is job security. People don't know when they're going to lose their jobs. There's so much insecurity.

Then there are the quality-of-life issues. People are not getting adequate time off on the weekends or between shifts. Respect is a big thing as well, especially for women. I've seen more and more women enter the field, and they experience bullying and harassment. These issues would bring anyone to the union.

*We are especially interested in gender dynamics. Can you talk more about that?*

We did a survey about three and a half years ago. At that point the majority of the workers were male, but that has changed. I have met a lot more women in the industry. I find that they relate to collectivization and strength-in-numbers arguments. I've had people concerned about discrimination as well. You could have two people side by side, same skills, but somehow one person gets that job over the other. Whether there's a basis for that or not, I don't know. I think it's beginning to change. The makeup in the schools is certainly mixed. The oldest senior members are predominantly male, but the younger group moving up includes a lot more women.

*What other issues confront VFX workers?*

They've told me about bullying and harassment. Not knowing when you're going to have a job or how long your job is going to last is also a problem. Specifically people will get extensions and be retained on a project for another couple of weeks or so, but there are no promises. When you put that kind of pressure on

people, they feel like they don't have a voice. Employees want to have a voice in the workplace, and be able to talk about issues and know that everyone is interconnected. I find that there's a feeling of isolation with everybody assigned to their cubicles. Somebody told me the other day that he had to hold a meeting over Skype with a guy who was in a cubicle two feet away. There's a disconnect. You start to lose your identity within the whole project. Folks are not at all willing to speak up and question whether they are being paid properly for fear they will not have a job the next day. It seems ludicrous, but that's how it is. There are mechanisms in place to redress these issues, but the way our employment standards are set up, they are all complaint driven and worker initiated. And so there is an absolute reluctance to go against any of it. I've had people come meet me, and I make sure we have a safe place, but if they'd see their supervisor, they'd tremble in fear.

*Can you give some examples of what you mean by bullying? What makes a worker tremble in fear?*

There is fear to question your employer and fear about attendance at work. Even when someone has worked twenty-one days straight and they suddenly need to stay home to look after their sick kid, they worry about what will happen to them because they have to miss work to tend to their family. I've heard reports about sexual harassment, and these people have said there's nowhere to go to talk about it. They feel like they're being blamed for it. Conditions vary with the company. Some companies have bad managers. There is one company in particular where managers shout at the workers: "What's the matter with you? Aren't you a team player?" All kinds of things happen in VFX and animation shops. It's not the same as the studio-based system with distinct labor relations.

One company has a clock that measures each worker's productivity. For some reason the clock never seems to be in the green. The clock is always in the red no matter how good you are. When that clock goes into the red, you have to stay over on your own time. You are not being paid to get your clock back into the green. And that takes its toll on people psychologically. Folks have said that when they go out for lunch, they just see the clock looking them in the eye. They can't even rest and eat their lunch comfortably.

*Do you think that represents a significant number of workplace environments?*

No. That's one specific company. But when the animator gets out of there and goes to a better company, he thinks it's just fantastic. If that company is just a little bit better, it's perceived as so much better.

*Can you talk more about the toll this takes on families?*

I've met many artists who are starting young families or want to have a life, and they aren't able to do that with the way the work is being done. That's not dissimilar, in a sense, from the situation in motion picture production. It's a very difficult business. But in British Columbia's motion picture industry, weekend turnaround is worked into our contracts. That is a very real, desirable thing that folks want. They want a weekend. They don't want to work day in and day out. They don't want to be told at six o'clock, "I'm sorry, but you have to stay later because we have to get this done." They can't have a personal life or a family life or even contemplate having a family because they work all the time.

*What about the issue of mobility?*

That also ties into family issues. Folks are not going to want to hear this down in Los Angeles, but I hear from many artists, whether they are from L.A. or Toronto or Auckland or London, that they just want to be in one place and do their job. And they would be happy to stay in Vancouver and continue their work. The prospect of having to get up and move again to work somewhere else is worrisome. I knew one guy who worked in four different cities in one year. How can you have a life? How can you put down roots? That is disturbing for a lot of artists. When some folks get out of school, they're living the VFX dream, working at Weta Digital in New Zealand and it's all so great, but then they have to move on and on. After a while it wears them down. There is more to life than traveling the world for job after job, not knowing where your next job is going to be.

*You mentioned that close to two thousand folks are working in the VFX sector in British Columbia. Do you have a rough estimate of how many of those workers are Canadian nationals and how many come from other countries?*

We did a study about three years ago and the respondents in the study were about 45 percent Canadian, 55 percent from elsewhere. I don't know what that number is right now. I might have to do the survey again. I do know that a number of the artists I've signed up over the years are applying for their Canadian residency and would like to work here and stay here. Of course they're more likely to be employed if they're a Canadian resident because then the tax credit kicks in.

*What is your general take on the tax credit itself? Do you think it's a devil's bargain?*

I think some level of incentive has been instrumental in breeding a significant crew base for live-action motion picture production here in British Columbia.

Prior to the introduction of labor-based tax credits there were all kinds of tax shelter scams going on, and the federal government looked the other way. I've met producers in Los Angeles who said the labor-based tax credits are the most effective way of creating real, good-paying jobs. And it has done that. Incentives have now spread to other cities and countries, and the competition has escalated, and in some places, the return on investment isn't there. That hasn't been the case here in British Columbia, but it has been elsewhere.

*Why have incentives worked well in British Columbia?*

The government continues to support the labor-based tax credit and believes that there is a multiplier effect. When you add the Digital Audio Visual (DAV) tax credit, it's a pretty substantial package. I'm still not 100 percent clear about whether shows that are not shot in British Columbia also get the labor-based tax credit or if they're only eligible for the DAV tax credit. The actual DAV tax credit has also been instrumental in the growth of the visual effects and animation industry here.

*If VFX workers from outside Canada are able to find multiple jobs and stay in the area, are they pressured to apply for residency so their salaries are subsidized, or is that up to them?*

I have not heard of anything like that. I have heard of people who wish to stay here and have their visas extended. Their ability to negotiate higher wages doesn't seem to change. But I have not heard of anyone being pressured into citizenship. Citizenship is very, very specific. In fact, the Canadian government has introduced legislation [in April 2015] called the "four in and four out" rule. It says you can only work here for four years. After that, you have to wait another four years in your home country or as a non-working visitor in Canada before applying for a new work permit, unless you apply for permanent residency, which exempts you from the rule altogether. Right now, it's still too soon to tell how workers are responding to the change.

*Do people in the VFX business now think that Vancouver is one of the premier centers for VFX work worldwide?*

Yes, it is. I was at an L.A. event a couple years back where they said that Vancouver would surpass London as a destination where producers would want to do their visual effects.

*Are there any places that directly compete with Vancouver for VFX work?*

Montreal. But it's interesting because Montreal has a completely different makeup of companies. Some of the big studios like Industrial Light & Magic

also have contracts with Montreal studios to do their work. You'd have to look at that. Even though some of the top visual effects producers may not have facilities in Montreal, they do engage Montreal companies for some aspects of their work.

I don't want to overlook the fact that Vancouver is now on track to become the third-largest production center in North America. The visual effects industry wouldn't even be seeing its notable growth if it wasn't for the motion picture industry we already had in place. The two are intertwined. We were a motion picture production center before we did visual effects. In the mid-1990s, MGM had a lot of productions here, like *The Outer Limits* (1995–2002) and *Poltergeist: The Legacy* (1996–99), and then there was *The Andromeda Strain* (2008) and *Star-gate* (1994). Each of those had a heavy visual effects component. We were known for the science fiction stuff. This is where our local industry cut its teeth. The senior artists I'm talking to now, who have been in the industry fifteen or twenty years, they cut their teeth on the in-house visual effects that were necessary for the productions that came our way at that time. That's what I mean when I say we wouldn't have the visual effects without having the motion picture industry already here.

*What gives Vancouver its competitive advantage? Why are producers saying it's going to surpass London?*

People enjoy coming here, and it's close for many producers and in the same time zone. All of the things that make British Columbia a desirable place for live-action production are the same things that make it desirable for visual effects.

*We've heard folks say the most pernicious aspect of the VFX industry is the fixed-bid contracting system that pits shops and localities in competition with each other. Do you see that as a significant issue?*

It is cutthroat. VFX companies underbid each other all the time to get work. Certain bids are too low to even do the work. Hollywood studios want to pay the least possible amount of money. They love to work with nonunion labor. The studios are completely complicit in what's going on, with the labor practices that are going on in India and wherever else. I mean, it's crazy. All in all, the companies here are abiding by the laws of the land, but that's not the case overseas. If these companies aren't being challenged about their practices, then it's going to be business as usual. They want to get the next show, and they can't afford to not keep projects in their pipeline. So, sometimes they're robbing Peter to pay Paul.



*Given that situation, what's the path forward? What is the best way to address these issues?*

I am going to go back to Rhythm & Hues, a company that was the gold standard in terms of a pension plan, a 401k, medical, and good pay. It would have been impossible to organize Rhythm & Hues. But when the company failed, the studios didn't let their feature film projects dry up. The movies were going to get made, it just depends on who would make them. No matter who you're working for, the work still has to be done. The question is, by whom and under what conditions?

Intellectual property security is another one of Vancouver's strengths. When you start sending stuff to China, you're not sure about the safety of your project or your work materials. You're not going to send the most critical scenes overseas. Artists have been concerned that if we unionize, the jobs are going to go to other countries or they won't be able to afford to have a union. Those are two things that get mentioned a lot. I refer to live-action production in those cases. We've been threatened many times that work will be sent elsewhere, and sure enough, work does get sent elsewhere. But at some point you can't lower your standards. A producer can say, "I'm going to shoot my project in Bulgaria so I only have to pay \$10 a day." Well, great, but we can't live on \$10 a day in Vancouver. I guess maybe they should go to Bulgaria and do their project. We'll just close up and not be here when we're needed. You can't let yourself be taken to the very bottom.

The other part is that we're not in the business of putting companies out of business. That's why, even within our live-action contracts, there are tiers. You negotiate based on what is reasonable. When I talk to workers about organizing, I tell them we're not in the business of shutting down their facility. What would be the point of that? The point is to be able to bring in nonmonetary items that can be translated into monetary terms. But everything comes down to the money. In many cases there are advantages to being part of a bigger group. For instance, a facility not being able to afford a benefits plan, but if its employees were part of a larger group, it may be able to realize much better cost savings. There's a benefit there. There is only so much apple, but you can make all kinds of things out of the apple.

*Do you think there is a possibility of organizing labor organizations across international lines?*

IATSE already has a relationship with the United Kingdom's Broadcasting, Entertainment, Cinematograph and Theatre Union. But no matter what, the laws of the land prevail, so that's a challenge. But in terms of organizing an international

union, the benefit of it is that the employers are the same everywhere. We're currently working toward improving information sharing, communication, and working together on shared concerns to raise the bar for all workers. There's loads of international union organizations that have affiliates all over the world who get together and work on the same issues. Corporations are global. Unions have to collaborate as well.

*We've also talked to Scott Ross, who comes at the issue from the perspective of a manager. He says that even before we get to the question of whether unions can cooperate, there must be some cooperation among the VFX shops themselves. He advocates a trade association. Do you have any thoughts about that?*

Scott Ross tried to get that happening, and he didn't get too far. In Ontario, they have the Computer Animation Studios of Ontario (CASO). So they have a trade organization, but I can tell you right now that you can form all the trade organizations you want, but unless the workers collectivize and create their own union, nothing is going to happen.

*And why is that?*

It's really nice when you have company owners who are respectful and good with their employees. Every year they give them a raise, and they have a pension plan for them and a welfare plan for them, but those types of owners are few and far between. The shops are competitors. Their bottom line is getting the next job. And the big Hollywood studios are part of multinational global companies. It's the same with some of the big VFX companies. I mean, MPC is part of Technicolor; Method is Deluxe. These are global companies on stock exchanges. They've got their marching orders, their managers, their human resources people. It's about the dollar and the bottom line. In order to deal with that, you have to organize the workers.

*Have you been able to organize any of the stand-alone VFX facilities in British Columbia?*

We haven't gotten one yet. I'll be honest, it's a very long, protracted process due to rapid growth and the fact that people are coming from all over the world. And that's specifically in Vancouver. It's fascinating. I'll meet people from all over the world. Some of them will say, "What's wrong with the union, why are people so weird about having a union?" They tend to come from fairly socially oriented societies like Italy or France. They come here and there are so many people from so many places, so many cultures, so many age groups, and folks become isolated, especially when they're on three-month contracts. Once again, I have to refer back

to the labor code. Our labor code is not constructed in a way that makes it easy to organize. If you sign one of the cards, the card is only good for ninety days and then you have to go and get the card signed again. By that time, the person may already be working at another facility.

So, because of the large number of workers and all this mobility, my goal is just to continue the conversation and help workers organize themselves. I've spoken with sectors of people who have been in a union before or whose parents have been in a union, and I've even spoken with those who have no experience with a union. Many people are isolated from the live-action motion picture piece, where everyone is in a union. It's a completely different world. Many of the VFX and animation workers have no experience with that.

*Has 891 pulled back on its efforts to organize VFX workers?*

It comes in cycles, waves. There was the wave during the Digital Domain bankruptcy. Then there was the wave during the Rhythm & Hues bankruptcy. There is a production cycle with visual effects as well. There will be a lot of ramping up, a lot of work going on, and then there will be a lot of layoffs. People will be off for a few months, and then it begins to ramp up again. Legally we can't organize a shop when there are only eight people in it because those eight people do not represent a substantial volume of work. The first people who show up are the people who are digging the hole, so to speak. There are not a lot of people digging the hole or putting up the crane, if you're talking about a construction project. Eventually there are hundreds of people working on that building, so you have to be able to get all of those people. It's the ramp-up model.

Somewhere at the top is the real number. That's who you have to go after, but it's incredibly difficult to find out who's working in those facilities, especially because they are all so isolated. Those employees work in cubicles. They do not talk to each other. It's not a regular workplace. That context means it takes longer. When I started doing this about four years ago, none of these workers knew anything about unions, or they had negative attitudes about them. That has really, really changed, especially after the *Life of Pi* (2012) stuff. But it's still difficult. They work in a virtual world, and you can't be virtually organized. You have to actually come together. You have to sign a physical piece of paper. You have to have a meeting. So, it's not easy, but it's not impossible.

*What do you think about L.A.-based VFX workers who criticize subsidies and are advocating that countervailing duties be imposed by the WTO?*

I was at ground zero for a moment last year and took fire from both sides after I talked with artists who were opposed to tax credits. It was assumed that I was also

opposed. I look at that as divisive. It doesn't matter what tax credits are in place; workers can be exploited. For me, it's about making sure workers are paid, looked after, have a retirement plan, have a decent living, and are valued for what they do. It doesn't matter whether you have subsidies or not, abuses still happen. You can have subsidies and still have worker exploitation, so I focus on that piece and not the subsidy piece. I'm very aware of all that stuff, and many of the artists I speak to couldn't care less. They just want to work. Some of those artists are American as well.

I think I summed it up a little bit when I wrote a letter to VFX Soldier after the Pi Day demonstration. I was kind of upset with him. He jumped onto this whole subsidy thing, making it seem as though this was the answer to everything. But what about the fact that people are getting exploited regardless of where the work is taking place? That has nothing to do with the subsidies, and that's what we need to address.