

Tribunal de santé et
sécurité au travail Canada



Occupational Health
and Safety Tribunal Canada

Ottawa, Canada K1A 0J2

Citation: Scott Pattison v. G4S Cash Solutions (Canada) Ltd., 2013 OHSTC 13

Date: 2013-03-27
Case No.: 2011-35
Rendered at: Ottawa

Between:

Scott Pattison, Appellant

and

G4S Cash Solutions (Canada) Ltd., Respondent

Matter: Appeal under subsection 129(7) of the *Canada Labour Code* of a decision rendered by a health and safety officer.

Decision: The decision that a danger does not exist is confirmed.

Decision rendered by: Mr. Douglas Malanka, Appeals Officer

Language of decision: English

For the appellant: Mr. Scott Pattison

For the respondent: Mr. John Honan, Director, HR Compliance,
G4S Cash Solutions (Canada) Ltd.

Canada

REASONS

Background

[1] This is an appeal brought by Mr. Scott Pattison, a guard employed at G4S Cash Solutions (Canada) Ltd. (G4S) at the Peterborough Branch, pursuant to subsection 129(7) of the *Canada Labour Code* (Code). Mr. Pattison appealed the decision of Health and Safety Officer (HSO) Bob Tomlin on June 22, 2011, that the danger did not exist for him.

[2] Mr. Pattison stated that he was at G4S's Mississauga Depot on June 9, 2011 loading cash into his truck when a white powdery substance fell from the bags onto his body. He stated that he washed the substance off but later his skin became irritated and he broke out into a red rash. Mr. Pattison said that he went to the Northumberland Hospital emergency where he was told that he suffered an allergic reaction. He was treated and released.

[3] On June 20, 2011, Mr. Pattison refused to work pursuant to subsection 128(1) of the Code. Mr. Pattison wrote in his refusal to work statement that he believes that he is being exposed to a substance inside the truck that may be resulting in an allergenic reaction and a potential danger to his health and safety.

[4] HSO Tomlin investigated Mr. Pattison's refusal to work and decided that a danger did not exist for Mr. Pattison. HSO Tomlin stated in his report that the employer believes that the employee may have been exposed to a dust like substance which could accumulate on the cash bags at various locations. However, HSO Tomlin noted that the employer does not believe the employee has been exposed to a dangerous substance and in any event was not exposed to any substance that approaches a threshold limit value. The employer advised Mr. Pattison not to touch and handle cash bags during the shift.

[5] HSO Tomlin wrote in his Investigation Report and Decision document:

The employee may have been exposed to limited amounts of talc or possibly another substance coming off the bags through his handling of the bags. I do not believe that he could have been exposed to a level of industrial talc that would even approach the TLV. He may suffer from a hypersensitivity to talc or possibly latex or some other unknown substance, however, at this time he has not been diagnosed with an allergy associated with this exposure. **Therefore I determine that a danger does not exist that can be supported by the Canada Labour Code.**

[6] Mr. Pattison appealed the decision of HSO Tomlin to an appeals officer pursuant to subsection 129(7) of the Code and a hearing was held in Peterborough, Ontario on January 24 and March 27 to 30, 2012.

Issue

[7] The issue that I have to determine in this appeal is whether the appellant was exposed to a danger as defined in section 122(1) of the Code when he exercised his right to refuse to work.

Submissions of the parties

A) Appellant's submissions

[8] The Appellant, Mr. Pattison, called nine witnesses and testified himself. The witnesses called were as follows:

- Mr. Kelly McDonald, Cash Room, G4S;
- Mr. Paul Hayes, Guard, G4S;
- Ms. Caroline McDonnell, Guard, G4S;
- Mr. Greg Gomes, Custodian, G4S;
- Mr. Jaroslaw Kmin, Guard, G4S;
- Mr. Michael Lee, Guard, G4S;
- Mr. Bryan Etherington, Section Manager, G4S;
- Ms. Laura Watters, Supervisor, G4S; and
- Mr. David Caverley; Guard, G4S.

[9] Mr. Kelly McDonald testified that he was hired by G4S in 1996 and is employed to bag cash in the cash room at the Mississauga, Ontario Branch. Mr. McDonald stated that he developed a nasty rash on his right hand that he used for stuffing petty cash in money bags within 2-3 months of working there. Mr. McDonald stated that the rash started on his knuckles and went to his wrist and appeared identical to the photos of the rash that Mr. Pattison suffered on his hands. Mr. McDonald said that he knew the bags were responsible for the rash because it disappeared when he went on holidays and reappeared when he returned. Mr. McDonald stated that he didn't complain to G4S for fear of losing hours or his job.

[10] Mr. McDonald told me that he was transferred to the coin room where he did not handle cash and the rash disappeared completely. Mr. McDonald worked in the Mississauga depot vault for 8-10 years and experienced no rash. Mr. McDonald testified that the rash came back when he was assigned back to the cash room 4 years ago. Mr. McDonald stated that the rash was diagnosed as eczema and then psoriasis but the cause was never established. Mr. McDonald said he was certain that there is a relationship between the dust and his rash and that he now wears gloves to avoid rash.

[11] Mr. Paul Hayes is an armed guard with G4S and Mr. Pattison's partner. Mr. Hayes confirmed that Mr. Pattison had loaded the truck on June 9, 2011 but could not recall Mr. Pattison telling him that he had been exposed or bothered by dust. Mr. Hayes agreed that there is dust and dirt at the depots and that his uniform has looked as dusty as Mr. Pattison's soiled uniform shown to him at the hearing.

[12] Ms. Caroline McDonnell is a guard at G4S and testified that she was the employee co-chair on the work place joint health and safety committee (JHSC) at G4S. Ms. McDonnell testified that several employees in the Mississauga cash room complained to G4S on March 23, 2010 that they felt ill working there and four of the employees complained of a skin rash on their hands. Included in the group complaint was Greg Gomes who complained of a hand rash and Jarek Kmin who complained of a skin rash on both hands.

[13] Ms. McDonnell stated that G4S hired Pinchin Environmental Ltd. to conduct an air quality and lighting levels test in the cash room at the Mississauga depot and the testing was subsequently carried out on March 30, 2010. Ms. McDonnell stated an additional humidifier was installed in the cash room following the tests but she was not aware if Pinchin had ever identified or tested the dust in the self-sealing cash bags. Ms. McDonnell confirmed that 3 air filter machines were also installed in the Vault-Cash Room at Mississauga and, while the air filters improved air quality in vault and cash room, there were still skin irritation issues.

[14] Ms. McDonnell noted that money is dirty, that there is a lot of dust at Branches, and there is a lot more in the barn (the area where trucks are loaded and unloaded) because of the truck traffic. Ms. McDonnell confirmed that the floors were cleaned 5 days/week but testified that dust and white powder persists in the work place to this day. Ms. McDonnell held that the dust in the photos shown to her by Mr. Pattison at the hearing is similar to what is found in the barn and vault area and the shop. Ms. McDonnell held that Mr. Pattison's accident was preventable if the housekeeping was proper.

[15] Ms. McDonnell confirmed that self seal bags used in the cash floor are stored in boxes in the barn and that boxes may contain Talc.

[16] Mr. Gomes testified that he was employed by G4S in the cash room at the Mississauga Depot. He told me that a rash developed on his hands and fingers and his hands swelled whenever he worked there. He felt the rash was coming from something on the money or the air circulation.

[17] Mr. Gomes said he talked to Mr. Pattison when he heard of Pattison's rash. Mr. Gomes said that the rash he had suffered to his hands was similar to the rash on Mr. Pattison's hands. Mr. Gomes added that he complained about his skin rash on March 23, 2010, and there was no discussion about Material Safety Data Sheet (MSDS) training or MSDS sheets regarding any contaminants that might be in the cash room or on the machines.

[18] Mr. Gomes stated that he began wearing gloves and mask after the March 23, 2010 complaint and, despite the fact that G4S had not recommended their use, G4S supplied them. Mr. Gomes stated that he has not experienced a rash since wearing the gloves. Mr. Gomes confirmed he has never consulted a doctor regarding his rash.

[19] Mr. Kmin testified that he was employed by G4S in the cash room at the Mississauga Depot. He told me that he saw red spots and a rash develop on his hands after working an hour in the Mississauga cash room stuffing cash in cash bags. Mr. Kmin said that he now washes his hands and wears protective gloves and this has taken care of the skin irritation. Mr. Kmin stated

that the rash on his hands was similar to the rash on Mr. Pattison's hand and confirmed that he never consulted a doctor. Mr. Kmin stated that he nonetheless filed with the March 23, 2010 group health and safety complaint.

[20] Mr. Brian Etherington, Section Manager, G4S, testified that Mr. Pattison had called him on June 10th, 2011 and told him that he had come into contact with a powder at Mississauga Branch and suffered a rash over his body several hours later. Mr. Etherington stated that Mr. Pattison filed an accident report regarding his exposure on June 9, 2011, and he notified Mr. Jason Oran, a member of the work place health and safety committee. Mr. Etherington testified that he and Mr. Oran went through the cash bags to find any evidence of a quantity of dust that could have contaminated Mr. Pattison and nothing was found.

[21] Ms. Watters, National Director of health and safety at G4S, testified that G4S provided Mr. Pattison with an MSDS sheet for Nyltal Talc when he returned to work on June 20, 2011. Ms. Watters stated that the MSDS confirms that talc is not a hazardous material in low concentrations and the author of the MSDS agreed that the amount of talc on the cash bags would be considered low concentration.

[22] Ms. Watters testified that she was not aware of the presence in the G4S work place of any raw material used in the manufacture of the cash bags. Ms. Watters confirmed that Mr. Pattison only received the MSDS sheet on *secure pak bags* on October 7, 2010, approximately 4 months after his request. Ms. Watters said it took a long time to obtain the MSDS on the bags because the supplier maintained that the information on the raw material was a trade secret.

[23] Ms. Watters testified that the video showing Mr. Pattison loading his vehicle on June 9, 2011, did not show Mr. Pattison brushing dust from his clothes or sneezing and coughing. Ms. Watters said that G4S is waiting for a medical report from Mr. Pattison to confirm that the rash to his body that he suffered is indeed linked to his work since HSO Tomlin had decided the exposure did not constitute a danger under the Code.

[24] Mr. Caverley, a guard with G4S, testified that he had a contract with G4S to clean the Branch at Peterborough and the trucks. Mr. Caverley stated that he cleaned every week for the last 5 years.

[25] The Appellant, Mr. Pattison, testified that he went home after his accident and did not shower until his friend commented on his rash. Mr. Pattison stated that he had not eaten anything out of the ordinary during the day. Mr. Pattison testified that the doctor who examined him at the hospital said that the skin rash he suffered was topical in nature and unlikely to have been caused by something eaten.

[26] Mr. Pattison testified that doctors had told him that they were wary of conducting an allergy test on him until more is learned about the allergic reaction he suffered on June 9, 2011, because the next step in the reaction could have involved swelling of his throat. Mr. Pattison stated at the hearing that he has not received confirmation as to when the allergy testing might be done. Mr. Pattison testified that his doctor was surprised that G4S had not done any on site testing to determine what caused the rash.

[27] Mr. Pattison conceded that no one has been able to determine what caused his allergic skin reaction. Mr. Pattison held, however, that the testimony of witnesses who suffered similar rashes and the physical evidence he submitted which included photos, video and medical documents, establish that the dust to which he was exposed on June 9, 2011, caused his allergic skin reaction later that evening and constituted a danger under the Code.

[28] Mr. Pattison further maintained that a danger continues to exist for him and the other hypersensitive employees as they work around areas where trade secret residue chemical levels are known to exist.

[29] Finally, Mr. Pattison asked the Tribunal to award him costs and expenses due to the negligence of G4S and HSO Tomlin related to their handling of his appeal and following the Code to protect and ensure workers safety.

B) Respondent's Submissions

[30] The Respondent called 5 witnesses; they were as follows :

- Mr. Jason Oran, Guard, G4S;
- Mr. Ryan Mallard; Occupational Hygienist, Pinochet;
- Mr. Leigh Shisler; Service Manager, G4S;
- Mr. Brian Millman; Section Manager, G4S; and
- Mr. Brian Etherington, Section Manager, G4S.

[31] Mr. Oran is a guard with G4S and a union steward there. He testified that he had examined the truck and the cash bags that Mr. Pattison was thought to have handled on June 9, 2011, and he did not see any excess powder on them. Mr. Oran said that there was some dirt on the outside of the bag.

[32] Mr. Mallard, Occupational Hygienist with Pinchin Environmental Ltd. testified that G4S contracted Pinchin to conduct tests at the G4S Branch in Mississauga after employees had complained about dust and lighting levels there. Mr. Mallard testified that he did not find enough dust in the cash room at Mississauga to cause an airborne dust concern. Mr. Mallard held that you would have to see visible dust in the air for the concentration of Talc to exceed the threshold level limit for the material and this was not the case.

[33] Mr. Mallard testified that there are no guidelines for surface talc but neither talc nor cellulose are sensitizers. Mr. Mallard further stated that talc would not combine to form a hazardous substance or make it more hazardous if mixed with other substances. Mr. Mallard testified that talc is abrasive and that the type of injury is friction dermatitis. Mr. Mallard stated that temperature or humidity might cause more dust to adhere to the skin.

[34] Mr. Shisler, Service Manager, G4S, testified that he was appointed as employer co-chair of the JHSC after Mr. Pattison's refusal to work. Mr. Shisler explained the physical layout of the Mississauga plant and held that dust cannot migrate from the cash room to the Barn at the

Mississauga Branch. Finally, Mr. Shisler stated that the JHSC conducted inspections of the work place and no one had noted white powder.

[35] Mr. Millman, Section Manager Peterborough, G4S, testified that he had never experienced a white powder on any size of money bags used there. Mr. Millman confirmed that he received a call from Mr. Pattison on June 13, 2011 asking him to go into the sort room and go through the bulk bags stored in the back room after usage and see if he could find any evidence of a white powder. Mr. Millman testified that he looked through 100 bags stacked beside the vault and shook them. Mr. Millman confirmed that he saw no trace of a powder in the bags thought to have been used and handled by Mr. Pattison. Mr. Millman testified that he observed Mr. Pattison handling the bags that he said caused his rash when showing them to HSO Tomlin.

[36] Mr. Etherington, Section Manager, G4S, at the Peterborough, Ontario, Depot testified that he worked for G4S for 15 years and was at Peterborough for 6 years. Mr. Etherington told me that he investigated Mr. Pattison's refusal to work while Mr. Pattison was on vacation. He said he spoke to Jason Oran, employee representative on the work place JHSC and Mr. Weight and also looked at the type of bags Mr. Pattison had handled when he said he was exposed to the dust. Mr. Etherington said that he later met with Mr. Oran on June 13 or 14th and completed a joint investigation of Mr. Pattison's lost time injury. Mr. Etherington testified that the two of them looked at the bags in the branch and a video that had recorded Mr. Pattison loading his truck on the day of the alleged exposure. He stated that they did not see anything. Mr. Etherington told me that he called Lee Shisler at Mississauga and asked him to inspect the Barn floor at the Mississauga Branch to look for evidence of something visible. Mr. Etherington testified that he and Mr. Oran concluded following their investigation that they could not find anything to explain Mr. Pattison's allergic reaction.

[37] On June 20, 2011, Mr. Pattison returned to work and filed a health and safety complaint. G4S decided to accommodate Mr. Pattison until the medical evidence was received. Mr. Etherington stated that G4S provided Mr. Pattison with a new uniform shirt and pants and money to buy new safety boots. As part of the modified work accommodation, Mr. Pattison was assigned to work as a guard or driver and instructed not to handle or touch bulk bags until a medical report determines the irritant that caused Mr. Pattison's injury. At the same time Mr. Pattison was given a copy of the MSDS for Nyltal 200 Talc that he had requested.

[38] Mr. Etherington testified that since Mr. Pattison's refusal to work, he has been observed handling bags without gloves, including at the hearing, and did not suffer any apparent allergic reaction or rash.

[39] Mr. Etherington confirmed that the medical reports provided to him by Mr. Pattison are inconclusive regarding Mr. Pattison's work place injury. Mr. Etherington also stated that G4S has not tested any material because the Company didn't know what material they should be sending for testing.

[40] Mr. Honan, Director, HR Compliance, at G4S Cash Solutions and the employer's representative in this appeal, submitted that Mr. Pattison's appeal in this case is frivolous and unfounded. Mr. Honan held HSO Tomlin was thorough in his investigation, and that the

testimony and evidence presented at the hearing confirms that HSO Tomlin's finding of absence of danger was correct.

[41] Mr. Honan submitted that after learning from Mr. Pattison of his allergic skin reaction, G4S investigated into the occurrence with the Union Co-Chairperson on Mr. Pattison's JHSC.

[42] Mr. Honan argued that the video does not support Mr. Pattison's allegation that dust fell onto him or that he reacted to dust falling on him as he loaded the truck at the G4S Mississauga Depot on June 9, 2011. Mr. Honan held that Mr. Pattison did not submit any evidence at the hearing that establishes a clear link between the allergic skin reaction he suffered and the G4S work place.

[43] Mr. Honan referred to the testimony of Mr. Mallard, the Occupational Hygienist with Pinchin Environmental who testified that the industrial talc found at the G4S work place in Mississauga is not a controlled substance as defined by the Code and that concentrations found in connection with the self-sealing bags are within acceptable airborne threshold limit values for this substance. Mr. Honan noted that there was no presence of the raw trade secret materials used in the manufacture of the bags present in the G4S work place.

[44] Mr. Honan stated that Mr. Pattison's medical doctor and specialists had a copy of the MSDS information document on Nyltal 200 and the trade secret MSDS for the raw material that goes into the production of the Nelmar Secur-Pak self-sealing bags.

[45] Mr. Honan held that Mr. Pattison did not submit evidence to substantiate his position that the rash suffered by other employees at the G4S Depot in Mississauga was the result of exposure to industrial talc or similar powder at G4S.

[46] Mr. Honan referred to a letter that Mr. Pattison submitted at the hearing from an Occupational Health Clinic doctor at St. Michael's Hospital and noted that the letter dated, December 5 [sic] 2011, states that "he can continue doing his current work."

[47] Mr. Honan pointed out that G4S has continued to accommodate Mr. Pattison at work and learned at the hearing that no additional action has been taken by the physician treating Mr. Pattison to find what caused his allergic reaction. Mr. Honan noted that Mr. Etherington has repeatedly requested follow-up from Mr. Pattison.

[48] Mr. Honan maintained that it would not be reasonable to believe that an MSDS sheet for these raw materials must be physically available at the work place given that G4S is simply using a manufactured bag. Mr. Honan added that there was no conclusive evidence that the white powder that Mr. Pattison alleged he was exposed to on June 9, 2011 is a hazardous substance at the concentration levels found in or on the bags.

[49] Mr. Honan held that Mr. Pattison's refusal to work was based on speculation and asked that the finding of HSO Tomlin that a danger did not exist for Mr. Pattison be confirmed.

C) Reply Submissions of the Appellant

[50] Mr. Pattison reiterated his allegation that neither HSO Tomlin nor G4S had properly investigated his accident.

[51] Mr. Pattison noted that he did not wear gloves at the hearing when handling the bags on the recommendation of his doctor and that a big part of the reason why he suffered an allergic rash following his accident on June 9, 2011 was that it was 120 degrees Celsius in the building that day.

[52] Mr. Pattison asked that the decision of HSO Tomlin be rescinded and that I find that a danger existed for him at the time of his refusal to work and continues to exist.

Analysis

[53] The issue that I must resolve in this case is whether, a danger existed for Mr. Pattison as a result of exposure to a substance in his work place. The term “danger” is defined at section 122 of the Code as follows:

“danger” means any existing or potential hazard or condition or any current or future activity that could reasonably be expected to cause injury or illness to a person exposed to it before the hazard or condition can be corrected, or the activity altered, whether or not the injury or illness occurs immediately after the exposure to the hazard, condition or activity, and includes any exposure to a hazardous substance that is likely to result in a chronic illness, in disease or in damage to the reproductive system.

[54] The Federal Court and the Federal Court of Appeal in *Verville v. Canada 2003 FC 1158* and *Martin v. Canada (Attorney General)*, determined that to find that a “danger” exists:

- There has to be a hazard, condition or activity that can reasonably be expected to cause an injury or illness to an employee, which may not happen immediately upon exposure, but needs to happen before the hazard, condition or activity is altered.
- It is not necessary to establish precisely the time when the hazard, condition or activity will occur, but only to ascertain in what circumstances it could be expected to cause injury and establish that such circumstances will occur in the future, not as a mere possibility, but as a reasonable one.

Was there a hazard or condition in the work place that can reasonably be expected to cause injury to Mr. Pattison?

[55] G4S produced a video at the hearing that had recorded Mr. Pattison when he loaded his truck with money bags at the barn in the Mississauga depot the afternoon of June 9, 2011. The video does not corroborate Mr. Pattison’s description of how events unfolded regarding his alleged exposure. This, however, does not prove that an exposure never occurred, but rather confirms that Mr. Pattison’s memory of the event is not particularly accurate.

[56] What is clear and indisputable in this case is that a few hours following his shift at G4S, Mr. Pattison suffered a significant allergic skin reaction to a large percent of his body. According to Mr. Pattison, the doctors at Northumberland Hills Hospital emergency unit told him that the next possible stage in the allergic reaction that he initially suffered on June 9th was a narrowing of his air passage. Mr. Pattison testified that he now carries an EpiPen at all times.

[57] Mr. Pattison is adamant that the cause of his allergic reaction was either: the talc powder applied to the cash bags, which is used to prevent them from sticking together; the raw material used in the manufacture of the cash bags; and/or dust and dirt found in the Depots as a result of alleged poor housekeeping.

[58] Mr. Pattison testified that he visited his family doctor, Doctor Bayer, on June 23, 2011, who referred him to an Allergist in Whitby Ontario. Mr. Pattison stated that the Allergist told him that he had no experience in work place allergies and referred Mr. Pattison to St. Michael's Occupational Health Services in Toronto, Ontario. Mr. Pattison testified that the allergist at St. Michael's told him that he would not do any allergy tests because it was clear from the medical report from the Emergency unit at Northumberland Hills Hospital that the next stage in his allergic reaction was having his throat swell up.

[59] Mr. Pattison told me that he met with doctors at St. Michael's and they reviewed the photographs, history and records, including the MSDS sheets that G4S had provided them regarding his allergic skin reaction. Mr. Pattison submitted a letter at the hearing dated December 5, 2011 from Dr. Joel DeKoven to Dr. Linn Holness at St. Michael's. The letter states that their impression is that Mr. Pattison's allergic reaction was acute urticaria which seemed to be temporarily related to events of dust falling onto to him. Dr. DeKoven further wrote that the decision to do patch testing will be made following a full evaluation of Mr. Pattison's exposures at work. At the time of the hearing no testing had been done and Mr. Pattison could not confirm when or if testing would occur.

[60] In the absence of medical or scientific documents to confirm his allergic reaction was caused by something in the work place, Mr. Pattison subpoenaed other G4S employees who told him that they had suffered an allergic skin reaction on their hands similar to the rash that Mr. Pattison had suffered. These included Mr. Kelly, Mr. Gomes and Mr. Kmin.

[61] While there were striking similarities between the allergic skin reaction suffered by Mr. Pattison and that of Mr. Kelly, Mr. Gomes and Mr. Kmin, I have not found any medical evidence that, in my view, links the rash suffered by other G4S employees to Mr. Pattison's rash or to exposure to something in the work place. Mr. Kelly testified that his rash was diagnosed as eczema and then psoriasis but that the cause was never established. Mr. Gomes testified that he has never consulted a doctor regarding his rash and Mr. Kmin did not testify whether or not he had consulted a doctor.

[62] The Respondent G4S engaged Pinchin Environmental Co. to conduct air sampling tests after employees employed in the cash room at the Mississauga Depot (including Mr. Kelly, Mr. Gomes and Mr. Kmin), complained of health effects. Mr. Millard of Pinchin testified that he conducted air quality testing in the cash room and determined that the concentration of airborne

dust in the cash room was not significant. Mr. Mallard testified that there are no guidelines for surface talc. Mr. Mallard stated that talc is not considered hazardous and would not combine to form a hazardous substance or make it more hazardous if mixed with other substances.

[63] Mr. Kelly, Mr. Gomes and Mr. Kmin all confirmed that their rash is controlled as long as they wear protective gloves and wash their hands. Mr. Pattison admitted during the hearing that he has handled cash bags before and during the hearing and did not suffer a skin reaction. Though Mr. Pattison did say that he experienced itchy hands when, at the hearing, he handled the evidence in the case, what is unclear is why, despite the fact that Mr. Pattison continues to handle bags, this exposure has not caused the type of reaction he suffered on June 9, 2011.

[64] Again, while the testimonies of Mr. Pattison and his witnesses suggest that there were similarities in their skin rashes, I am not convinced that there exists a medical or scientific link between the rashes suffered by Mr. Pattison and his witnesses, or that Mr. Pattison's rash was caused by a discoverable substance or condition found in the work place.

[65] After a careful review of all the evidence submitted in this appeal, I am unable to identify any hazard in the work place that could reasonably be expected in the circumstances to cause injury or illness to Mr. Pattison. As such, I am left to conclude that a danger as defined in the Code did not exist for Mr. Pattison at the time of his refusal to work.

[66] Mr. Pattison stated in his submission that G4S and HSO Tomlin failed to apply the Code and investigate his accident properly and failed to cooperate with him in his efforts to find out what material in the work place has caused his injury. Mr. Pattison further held that G4S and HSO Tomlin were in violation of the following sections of the Code: 122.1; 122.2; 124; 125(1)(a) (b) (c) (d) (f) (g); 125.2; 127.1; 134.1; 135.1; 136.5(b); 141.1 (a) (b)(e); and 143. Mr. Pattison complained that he has had no WHIMIS or MSDS training to handle or dispose of floor waste, dust and powder safely.

[67] However, I have not found evidence in support of Mr. Pattison's allegations that G4S and HSO Tomlin failed to properly investigate his accident and contravened the above-mentioned sections of the Code.

[68] On the contrary, the evidence in this appeal confirms that both G4S and HSO Tomlin took Mr. Pattison's refusal to work seriously and conducted their own respective investigations. Following his investigation, HSO Tomlin concluded that Mr. Pattison may suffer hypersensitivity to something in the work place but there was no evidence that established something from the work place caused the reaction.

[69] G4S provided Mr. Pattison with the MSDS information that he requested so that he could provide the information to his doctors. The Respondent, G4S also accommodated Mr. Pattison while he visited doctors by agreeing that Mr. Pattison was not to be involved in loading vehicles until the matter was resolved, and provided and continue to provide Mr. Pattison with protective gloves.

[70] Mr. Pattison complained that it took four months for G4S to produce the MSDS sheets on the raw materials that go into the production of the cash bags. However, the evidence confirms

G4S's claim that it took this long because the ingredient information from the manufacturer of the plastic bags was a trade secret. The Code requires that trade secret information must be released to medical doctors but does not specify any time limit for producing the information. I am not persuaded that anyone had knowingly, purposely or even negligently delayed getting the information to Mr. Pattison.

[71] My hope is that G4S will continue to accommodate Mr. Pattison so long as he works with his doctors to identify the cause of his allergic reaction. G4S stated that they would take whatever measures are necessary should Mr. Pattison's doctors confirm that his allergic reaction was caused by something in their work place and identify that substance.

[72] Finally, Mr. Pattison asked the Tribunal to award him costs and expenses due to the negligence of G4S and HSO Tomlin related to their handling of his appeal and failure to ensure worker safety. However, I advised Mr. Pattison at the hearing there is no authority in the Code for an Appeals Officer to award costs, even if I were to agree that there was negligence in this case, which I do not.

Decision

[73] For all the above reasons, I find that a danger did not exist for Mr. Pattison and I hereby confirm the decision of HSO Tomlin dated June 22, 2011 in this regard.

Douglas Malanka
Appeals Officer