

CANADA LABOUR CODE
PART II
OCCUPATIONAL SAFETY AND HEALTH

Review under section 146 of the Canada Labour Code,
Part II, of a direction given by a safety officer

Applicant: International Longshoremen's Association
Saint John, N.B.
Represented by: Robert Breen

Respondent: Furcan Marine Limited/Potash Terminal
Saint John, N.B.
Represented by: Robert Forrest

Mis-en-cause: Luc Sarrazin
Safety Officer
Human Resources Development Canada

Before: Serge Cadieux
Regional Safety Officer
Human Resources Development Canada

On December 10th, 1997 safety Officer Luc Sarrazin conducted an inquiry in the work place operated by Furncan Marine Limited. He noticed that employees at this work place were not wearing head protection where head injuries could occur. The safety officer issued a direction to the employer under subsection 145(1) of the Canada Labour Code, Part II (the Code) on December 10th, 1997.

On December 23rd, 1997 the International Longshoremen's Association (I.L.A.) requested a review of the direction. A significant amount of time has elapsed in this case due to the fact that the I.L.A. had also presented a similar case before the Canada Industrial Relations Board (the Board). In that case, a safety officer issued a decision of no danger to employees refusing to wear hard hats. The I.L.A. requested that the Office of the Regional Safety Officer delay the hearing process in order for the Board to hear this case and render a decision. The I.L.A. argued that the outcome of the hearing before the Board would impact on the revision before the RSO and the need to proceed with the review of the direction. The Regional Safety Officer agreed with the postponement of a hearing date.

On August 18, 1999, the I.L.A. informed the Office of the Regional Safety Officer that following the decision of the Board, it was withdrawing its request for review. As the Regional Safety Officer responsible for the review of this direction I am confirming that the International Longshoremen's Association has withdrawn its request for review of the direction issued by Luc Sarrazin on December 10th, 1997 under subsection 145(1) of the Code. This file is closed.

Issued on September 16, 1999.

Serge Cadieux
Regional Safety Officer

IN THE MATTER OF THE *CANADA LABOUR CODE*
PART II - OCCUPATIONAL SAFETY AND HEALTH

DIRECTION TO THE EMPLOYER UNDER SUBSECTION 145(1)

On December 10th, 1997, the undersigned safety officer conducted an inquiry in the work place operated by FURCAN MARINE LIMITED, being an employer subject to the Canada Labour Code, Part II, at POTASH TERMINAL/COURTENAY BAY, P.O. BOX 69, SAINT JOHN, N.B., the said work place being sometimes known as Potash Terminal.

The said safety officer is of the opinion that the following provision of the Canada Labour Code, Part II, is being contravened:

1. 125(v) 12.4

Protective headwear that meets the standards set out in the COSH regulations are not used in all areas where there is a hazard of head injuries.

The employees were not wearing protective headwear at time of inquiry.

Therefore, you are HEREBY DIRECTED, pursuant to subsection 145(1)) of the Canada Labour Code, Part II, to terminate the contravention no later than December 10th, 1997.

Issued at Saint John, N.B. this 10th day of December 1997.

Luc Sarrazin
Safety Officer

To: FURCAN MARINE LIMITED
FURCAN MARINE LIMITED
POTASH TERMINAL/COURTENAY BAY
P.O. Box 69
SAINT JOHN, NB
E2L 3X1

SUMMARY OF REGIONAL SAFETY OFFICER DECISION

Applicant: International Longshoremen's Association
Saint John, N.B.

Respondent: Furcan Marine Limited/Potash Terminal
Saint John, N.B.

KEYWORDS

Headwear.

PROVISIONS

Code: 145(1)

Reg: 12.4

SUMMARY

A safety officer gave a direction to Furcan Marine Limited respecting the failure of its employees to wear hard hats. The International Longshoremen's Association requested a review of the direction but withdrew its request subsequently to a decision rendered by the Canadian Industrial Relations Board respecting this issue. The file was closed.