

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: Terminal Systems Inc.
Vancouver, B.C.
Represented by: E. Skowronek

Respondent: International Longshoremen's Association
Vancouver, B.C.
Represented by: A. LeMonnier

Mis-en-cause: M. Davey
Safety Officer
Human Resources Development Canada

Before: Serge Cadieux
Regional Safety Officer
Human Resources Development Canada

On March 25, 1999 safety Officer Martin Davey conducted an inquiry in the work place operated by Terminal Systems Inc., Vanterm. An accident had occurred to Mr. Skara, an employee of the company, when the pick-up truck he was driving was crushed by a falling container weighing approximately 20 tons. The container was on top of two other containers in a tier which was struck by a toppick. The pick-up truck caught fire in the engine compartment. Mr. Skara's right leg was trapped in the truck as he attempted to exit the vehicle in a haste. Employees of Vanterm were unable to extinguish the fire so rescue by the fire department was necessary. It was determined that the toppick operator was under the influence of alcohol which was considered to be a factor in the accident. The container was loaded with packaged asbestos which broke open during the accident.

The safety officer issued three directions to the employer. The first direction (ANNEX-I) was issued on March 25, 1999 under paragraph 145(2)(a) of the Canada Labour Code, Part II (the "Code") to protect employees from exposure to asbestos fibers which became airborne when the packages in the container were broken during the accident. The second direction (ANNEX-II) was also issued under paragraph 145(2)(a) of the Code on March 30, 1999 due to the toppick operator being under the influence of alcohol when the accident occurred. The third direction (ANNEX-III) was issued under paragraph 141(1)(f) of the Code on March 31, 1999 ordering the employer to produce documents relating to hazardous occurrences that occurred at Vanterm during a specified period preceding the accident.

On April 9, 1999 the British Columbia Maritime Employers Association requested a review of the three directions on behalf of the employer. On July 28, 1999, the Office of the Regional Safety Officer was formally informed that the employer was withdrawing its request for review of two of the three above-noted directions. Following a telephone conference held on August 24, 1999 with the parties involved in this case to address specific issues, the employer withdrew its request for review of the third direction.

As the Regional Safety Officer responsible for the review of these directions, I am confirming that Terminal Systems Inc. has withdrawn its request for review of the two directions issued under paragraphs 145(2)(a) of the Code and the one direction issued under paragraph 141(1)(f) the Code by safety officer Martin Davey on March 25, 30 and 31, 1999 respectively. This file is closed.

Issued on September 24, 1999.

Serge Cadieux
Regional Safety Officer

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

On March 25, 1999, the undersigned safety officer conducted an inquiry in the work place operated by Terminal Systems Inc., being an employer subject to the Canada Labour Code, Part II, at 1300 Stewart St., Vancouver, BC, the said work place being sometimes known as Vanterm.

The said safety officer considers that a condition in the workplace constitutes a danger to an employee while at work:

A container that was involved in an accident was breached with contents spilling onto the site. The contents were identified as bulk asbestos packages which themselves were broken open providing for the possibility of airborne asbestos fibres. My instruction at the time was to protect everyone from danger, ensure the hazardous material was kept damp, ensure cleanup was performed by a qualified person, prevent traffic access to the area, have the qualified person check surface water and runoff for the hazardous material and ensure that qualified persons are involved in the breakdown of the container to ensure there is no exposure.

Canada Labour Code

124. Every employer shall ensure that the safety and health at work of every person employed by the employer is protected.

125. Without restricting the generality of section 124, every employer shall, in respect of every workplace controlled by the employer,

(p) ensure, in the manner prescribed, that employees have safe entry to, exit from and occupancy of the workplace;

(s) ensure that each employee is made aware of every known or foreseeable safety or health hazard in the area where that employee works;

125.1 Without restricting the generality of section 124 or limiting the duties of an employer under section 125 but subject to such exceptions as may be prescribed, every employer shall, in respect of any workplace controlled by the employer,

(a) ensure that concentrations of hazardous substances in the workplace are controlled in accordance with prescribed standards;

(b) ensure that all hazardous substances in the workplace are stored and handled in the manner prescribed;

Canadian Occupational Safety and Health Regulations

10.8 Every hazardous substance stored, handled or used in a workplace shall be stored, handled or used in a manner whereby the hazard related to that substance is reduced to a minimum.

10.9 Where a hazardous substance is stored, handled or used in a workplace, any hazard resulting from that storage, handling or use shall be confined to as small an area as is practicable.

Therefore, you are HEREBY DIRECTED, pursuant to paragraph 145(2)(a) of the Canada Labour Code, Part II, to protect any person from the danger immediately.

Issued at Vancouver, this 25 day of March 1999.

Martin W. Davey
Safety Officer
Id No 1985

To: Greg Poitras
TSI, Vanterm
1300 Stewart Street
Vancouver, BC.
V5L 4X5

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

On March 25, 1999, the undersigned safety officer conducted an inquiry in the workplace operated by Terminal Systems Inc., being an employer subject to the Canada Labour Code, Part II, at 1300 Stewart St., Vancouver, BC, the said work place being sometimes known as Vanterm.

The said safety officer considers that the use or operation of a machine constitutes a danger to an employee while at work:

Mr. James McCafferty was operating a toppick (materials handling equipment) and was involved in an accident with said toppick while under the influence of alcohol.

Section 124 of the Canada Labour Code.

Therefore, you are HEREBY DIRECTED, pursuant to paragraph 145(2)(a) of the Canada Labour Code, Part II, to protect any person from the danger immediately.

Issued at Surrey, this 30 day of March 1999.

Martin W. Davey
Safety Officer
Id No 1985

To: Bruce Closter, Vice President
Terminal Systems Inc.
1300 Stewart St,
Vancouver, BC.
V5L 4X5

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

DIRECTION TO THE EMPLOYER UNDER PARAGRAPH 141(1)(f)

On March 25, 1999, the undersigned safety officer conducted an inquiry regarding the accident involving a toppick knocking over containers one of which struck a pickup truck, in the work place operated by Terminal Systems Inc., being an employer subject to the Canada Labour Code, Part II, at 1300 Stewart St. Vancouver, BC, the said work place being sometimes known as Venterm.

Therefore, you are HEREBY DIRECTED, pursuant to paragraph 141(1)(f) of the Canada Labour Code, Part II, to produce, no later than April 30, 1999, the documents and information relating to the safety and health of your employees or to the safety of the work place which are identified below, and to permit the said safety officer to examine and make copies or extracts of such documents and information:

All hazardous occurrence reports for Vanterm for incidents that have occurred since January 1, 1998.

A list of all hazardous occurrences that have occurred since January 1, 1998

Issued at Surrey, BC, this 31 day of March 1999.

Martin W. Davey
Safety Officer
Id No 1985

To: Bruce Closter, Vice President
Terminal Systems Inc.
1300 Stewart St,
Vancouver, BC.
V5L 4X5

SUMMARY OF REGIONAL SAFETY OFFICER DECISION

Applicant: Terminal Systems Inc.
Vancouver, B.C.

Respondent: International Longshoremen's Association
Vancouver, B.C.

KEYWORDS:

Danger, bulk asbestos, toppick, hazardous occurrence report.

PROVISIONS:

Code: 124, 141(1)(f), 145(2)(a)
COSH Regs: 10.8, 10.9

SUMMARY:

A safety officer gave three directions to Terminal Systems Inc following an accident to one of its employees. The accident occurred when the operator of a fork lift truck under the influence of alcohol struck a container which fell and crushed a pick-up truck driven by the victim. The container contained packages of asbestos which were breached during the accident and caused asbestos fibers to become airborne. The employer requested a review of the directions but, following discussions with the parties, withdrew its request. The file was closed.