

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: The Toronto Harbour Commission
Works Department
Toronto, Ontario
Represented by: Mr. K.J. Dew

Mis-en-cause: Mr. Robert Gass
Safety Officer
Human Resources Development Canada

Before: Serge Cadieux
Regional Safety Officer
Human Resources Development Canada

On December 3, 1998 Safety Officer Robert Gass conducted an inquiry at the workplace operated by The Toronto Harbour Commission (hereinafter the Commission). He then issued a direction (ANNEX) to the employer under subsection 145(1) of the Canada Labour Code (hereinafter the Code). The safety officer was of the opinion that specific provisions of the Code were being contravened.

On December 17, 1998, the Commission requested a review of the direction. The employer submitted it has complied with items 1, 2 and 3 of the direction but has a concern regarding item #4. The employer argued that the fall arrest system referred to in the direction had been completed and fully installed prior to the accident. When this was pointed out to Mr. Gass he indicated that if that was the case this direction would not apply. On January 6, 1999, Mr. Ken Dew, Manager, Human Resources at the Commission telephoned the Office of the Regional Safety Officer to indicate that the Commission wished to withdraw its request for review.

Mr. Dew was informed by way of a letter dated January 13, 1999 that his withdrawal would be accepted. However he was advised that only a Regional Safety Officer acting under section 146 of the Code can rescind a direction or any part thereof. Consequently, item #4 of the direction would remain on the record notwithstanding the safety officer's admission that it was issued in error. On January 21, 1999 Mr. Dew wrote to the Office of the Regional Safety Officer indicating that the Commission wished to pursue the request for review. On February 10, 1999, Mr. Dew wrote that after consideration and review, the Commission wished to withdraw its request for review.

As the Regional Safety Officer responsible for the review of this direction, I am confirming that The Toronto Harbour Commission has withdrawn its request for review of the direction issued under subsection 145(1) of the Code by safety officer Robert Gass on December 3, 1998. This file is closed.

Issued on February 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 September 10, 1998, the undersigned safety officer conducted an enquiry at the workplace operated by The Toronto Harbour Commission, (at Keating Channel, Port of Toronto), being an employer subject to the Canada Labour Code, Part II, at Toronto, Ontario.

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

1. Canada Labour Code, Part II, paragraph 125(v)

**Canada Occupational Safety and Health Regulations Part XII,
subparagraph 12.11(1)(a)(I)(ii)**

**The employer failed to ensure that life jackets were worn by employees working on
Derrick D50**

2. Canada Labour Code, Part II, paragraph 125(j)

**Canada Occupational Safety and Health Regulations, Part XII,
paragraph 12.11(2)(a)(b)**

**The employer failed to ensure that emergency equipment was available and a
qualified person was available to operate the equipment.**

3. Canada Labour Code, Part II, paragraph 125(v)

Canada Occupational Safety and Health Regulations, Part XII, Section 12.4

**The employer failed to ensure that employees working on Derrick D50 wore
protective headwear.**

4. Canada Labour Code, Part II, paragraph 125(j)

**Canada Occupational Safety and Health Regulations, Part XII,
subparagraph 12.10(1)(a)(I)**

The employer failed to provide a fall protection system.

Therefore, you are HEREBY DIRECTED, pursuant to subsection 145(1) of the Canada Labour Code, Part II, to terminate the contraventions no later than January 3, 1999.

Issued at Toronto, this 3rd day of December 1998.

Robert L. Gass
Safety Officer
#1771

To: Toronto Harbour Commission
Works Department
62 Villiers Street
Toronto, Ontario
Attn: Dave Smith - Superintendent

SUMMARY OF REGIONAL SAFETY OFFICER DECISION

Applicant: The Toronto Harbour Commission

KEYWORDS

Withdrawal, fall protection system

PROVISIONS

Code: 125(j), 125(v), 145(1),

Reg: 12.10(1)(a)(i), 12.11(1)(a)(i)(ii), 12.11(2)(a)(b), 12.4

SUMMARY

A safety officer gave a direction to The Toronto Harbour Commission. The Commission requested a review of the direction but further withdrew its request. The file was closed.