

**CANADA LABOUR CODE**  
**PART II**  
**OCCUPATIONAL HEALTH AND SAFETY**

Transport Canada Harbours and Ports  
Summerside Marine Terminal

*applicant*

and

Daniel Hogan

*health and safety officer*

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Decision No. 02-027  
November 19, 2002

- [1] On November 15, 2001, health and safety officer Daniel Hogan conducted an inspection in the workplace operated by Transport Canada Harbours and Ports in Summerside, P.E.I.. The health and safety officer was of the opinion that Transport Canada Harbours and Ports were not "...maintaining control of the material handling area and unauthorized pedestrians and vehicles are transiting through the materials handling area while cargo operations are being carried out." On November 16, 2001, the health and safety officer issued a direction (appendix) pursuant to subsection 145(1) of the *Canada Labour Code*, Part II.
- [2] On November 29, 2001, Mr. Brian K. Mosher, the Regional Director of Harbours and Ports appealed the direction issued on November 16, 2001. On October 21, 2002 Mr. Mosher informed the Canada Appeals Office that he was withdrawing his appeal of the above-mentioned direction. He mentioned that since the time of his appeal the company had undergone significant *Canada Labour Code* training and had also had several opportunities to become aware of the applications of the Code.

- [3] As the appeals officer seized of this case, I confirm that Mr. Mosher withdrew his appeal of the direction issued by health and safety officer Daniel Hogan. This case is closed.

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Serge Cadieux  
Appeals Officer

## **APPENDIX**

### **IN THE MATTER OF THE CANADA LABOUR CODE, PART II – OCCUPATIONAL HEALTH AND SAFETY**

#### **DIRECTION TO TRANSPORT CANADA HARBOURS AND PORTS UNDER SUBSECTION 145(1)**

On November 15, 2001, the undersigned safety officer conducted an inspection in the workplace operated by Transport Canada Harbours and Ports, being an employer subject to the *Canada Labour Code*, Part II, known as the Summerside Marine Terminal.

The said officer is of the opinion that the following provisions of the *Marine Occupational Health and Safety Regulations* are being contravened:

*12.35(4) If any person other than a person referred to in subsection (3) enters a materials handling area while operations are in progress, the employer shall cause the operations in that area to be immediately discontinued and not resumed until that person has left the area.*

Transport Canada Harbours and Ports are not maintaining control of the Material Handling Area and unauthorized pedestrians and vehicles are transiting through the material handling area while cargo operations are being carried out.

Therefore you are HEREBY DIRECTED, pursuant to subsection 145(1) of the *Canada Labour Code*, Part II, to terminate the contravention immediately.

Issued at Charlottetown, PE, this 16<sup>th</sup> day of November 2001

Daniel J. Hogan  
Safety Officer

To: Mr. Maurice Cormier  
Transport Canada Harbours and Ports  
Atlantic Region  
PO Box 1270  
Charlottetown, PE  
C1A 7M8

## **SUMMARY OF APPEALS OFFICER DECISION**

**Decision No.:**      **02-027**

**Applicant:**      Transport Canada Harbours and Ports  
Summerside Marine Terminal

**KEY WORDS:**      Material handling area, training, pedestrians, cargo.

**PROVISIONS:**      C.L.C. 145(1)

Marine Occupational Health and Safety Regs: 12.35(4)

### **SUMMARY:**

On November 15, 2001, health and safety officer Daniel Hogan conducted an inspection in the workplace operated by Transport Canada Harbours and Ports in Summerside, P.E.I.. The health and safety officer was of the opinion that Transport Canada Harbours and Ports were not maintaining control of the material handling area. On November 16, 2001, the health and safety officer issued a direction pursuant to subsection 145(1) of the *Canada Labour Code*, Part II. On November 29, 2001, Mr. Brian K. Mosher, the Regional Director of Harbours and Ports appealed the direction issued on November 16, 2001. On October 21, 2002 Mr. Mosher informed the Canada Appeals Office that he was withdrawing his appeal of the above-mentioned direction

The appeals officer confirmed that Mr. Mosher withdrew his appeal of the direction issued by health and safety officer Daniel Hogan. This case is closed.