

Canada Labour Code
Part II
Occupational Health and Safety

Bernie Blakely
applicant

and

Algoma Central Corporation
employer

Decision No. 03-020
November 18, 2003

This case was decided by Michèle Beauchamp, appeals officer

[1] This case concerns an appeal submitted on November 5, 2002 by Bernie Blakely, an employee of Algoma Central Marine Corporation, under subsection 129(7) of the *Canada Labour Code*, Part II.

[2] The appeal seemed to relate to a decision of absence of danger issued by health and safety officer Robert Gowie, of Transport Canada Marine.

[3] However, the facts were that health and safety officer Gowie had investigated a complaint made by Mr. Blakely, that Algoma Central Marine had contravened section 147 of the *Canada Labour Code*, Part II, by taking disciplinary measures against him for reporting safety issues. After investigating, Mr. Gowie had concluded that there had been no contravention of section 147.

[4] I wrote to Mr. Blakely on December 16, 2002, to advise him that under subsection 133(1) of the *Canada Labour Code*, complaints of this nature had to be dealt with by the Canada Industrial Relations Board (CIRB), and not by either an appeals officer or a health and safety officer. I also forwarded his complaint to the CIRB in order to protect his right under the *Canada Labour Code*.

[5] On December 27, 2002, Mr. Anthony F. Dale, counsel for Mr. Blakely, informed me that Mr. Blakely had properly initiated a complaint to the CIRB and that he would seek instructions as to whether he wished to pursue or not his appeal to this office.

[6] On January 6, 2003, I received a copy of the CIRB Investigating Officer's Report to the Board. On May 2, 2003, I informed Mr. Dale that as I had not received any other information from either him or Mr. Blakely, I would consider Mr. Blakely's file closed unless I received new information within May 20, 2003.

[7] As the appeals officer responsible for this case, I dismiss Mr. Blakely's file without further notice, as no other information has been received to this day.

Michèle Beauchamp
Appeals Officer

Summary of Appeals Officer's Decision

Decision No.: 03-020

Applicant: Bernie Blakely

Employer: Algoma Central Corporation

Key Words: Disciplinary actions

Provisions:

Code: s. 133, s. 147

Regulations:

Summary:

The applicant appealed a decision of absence of danger made by a Transport Canada Marine health and safety officer, following an investigation of his complaint that his employer had taken disciplinary measures against him, contrary to section 147 of the *Canada Labour Code*, Part II.

Case dismissed: the appeals officer has no authority to deal with appeals made pursuant to section 147.