

Canada Labour Code
Part II
Occupational Health and Safety

John Ingles
applicant

and

Canadian National Railways
employer

Decision No.: 04-011
March 16, 2004

This case was decided by Douglas Malanka, appeals officer.

[1] On April 14, 2002, Mr. Charles (John) Ingles, a Conductor/Yard Foreman with Canadian National Railway (CNR) refused to work. According to the evidence, Mr. Ingles suffered an ongoing chronic gastrointestinal tract illness for the past 2 years which he suspected resulted from his use of a BELTPACK, a radio wave control device that remotely controlled locomotive functions in yard switching using electromagnetic waves. Mr. Ingles had been engaged in this work for about 6 years prior to his refusal to work.

[2] Health and safety officer Thorton investigated into Mr. Ingles' refusal to work on April 14, 2002. Following his investigation, he decided that the use of the BELTPACK did not constitute a danger for Mr. Ingles. According to his decision report, health and safety officer Thorton concluded that the evidence and statements submitted by doctors treating Mr. Ingles and by CNR did not establish that the use of the BELTPACK medically affected Mr. Ingles or otherwise constituted a danger for him.

[3] M. Ingles appeal the decision of health and safety officer Thorton to an appeals officer pursuant to subsection 129.(7) of the *Canada Labour Code*, Part II on April 23, 2002. However, the United Transportation Union representing Mr. Ingles subsequently wrote on August 29, 2003 to request leave to withdraw the appeal without prejudice. Their letter indicated that CNR concurred with the request.

[4] As the Appeals Officer seized of this appeal, I confirm that the appeal is withdrawn and that the file is closed.

Douglas Malanka
Appeals Officer

Summary of Decision

Decision No.: 04-011

Applicant: John Ingles

Employer: Canadian National Railway

Key Words: Decision, refusal to work, illness

Provisions:

Code: 129(7)

Regulations:

Summary:

The applicant appealed a decision of no danger issued by a health and safety officer, following a refusal to work. The applicant further withdrew its appeal and the appeals officer closed the file.