

Canada Labour Code
Part II
Occupational Health and Safety

Normand Vallée
applicant

and

Royal Canadian Mounted Police
employer

Decision No. 04-026
August 11, 2004

This case was decided by appeals officer Pierre Guénette on the basis of documents received from both the applicant and health and safety officer Jessica Tran.

For the employee:

Normand Vallée

Health and Safety Officer:

Jessica Tran, Human Resources and Skills Development Canada, Labour Program, Investigation Services Directorate, Montreal

- [1] This case concerns an appeal made on July 22, 2004, under sub-section 146(1) of the *Canada Labour Code*, Part II, (the *Code*) by Normand Vallée, Manager of RCMP's computer system operational support service in Montreal. This appeal was filed after an investigation into certain complaints.
- [2] Mr. Vallée made an initial complaint to the health and safety committee on November 8, 2001. This complaint is related to a lack of follow-up to a radio equipment problem that occurred on a motorized convoy during the Summit of the Americas that was held in Quebec City from April 20 to 22, 2001. Mr. Vallée also complained of the fact that both his employer and his immediate supervisor did not comply with the process for dealing with applications for compensation on account of post-traumatic stress.

- [3] The complaint was assigned to health and safety officer Jessica Tran (officer Tran). In a letter to Mr. Vallée on July 16, 2004, officer Tran communicated the results of her investigation, noting the following points:
- (a) (...) the powers conferred upon me pursuant to the *Canada Labour Code*, Part II, (*Code*), do not allow me to deal with your complaint because they do not fall under this legislation. As a result, I have no authority to intervene in relation to the aspects you indicate.
 - (b) In light of the internal complaint resolution process, not only you and your immediate supervisor, but also the OHS Committee and the employer, have all complied with this procedure. As a result, I do not observe any violation of the internal complaint resolution process.
 - (c) With the respect to the point of your complaint concerning the hazardous occurrence investigation report (...), since there was no disabling injury at the time of the incidents on April 21, 2001, the employer was not obliged to conduct an investigation and complete a report (...)
 - (d) With respect to compensation following a occupational disease, only the organization in charge could be in a position to respond to you about what steps to take.
- [4] It was in response to officer Tran's letter of July 16, 2004, that Mr. Vallée made his appeal on July 22, 2004.

- [5] There are two provisions in the *Code* that allow an appeals officer to hear an appeal: sub-sections 129(7) and 146(1). These provisions cover two very specific situations.
- [6] The reference to sub-section 129(7) deals with situations in which a health and safety officer has decided that a danger does not exist, after an employee has exercise his or her right of refusal to work and has made an appeal.
- [7] Sub-section 146(1) specifically deals with a situation in which an employer, employee or union appeals against a direction issued by a health and safety officer.
- [8] In this particular case, the appeal made by Normand Vallée does not result from a decision of no danger rendered by officer Tran following an investigation into a case of refusal to work, since Mr. Vallée had not refused to work.
- [9] Furthermore, the appeal is not related to a direction issued by officer Tran, following her investigation into Normand Vallée's complaints and where the employer, employee or union might have been prejudice, since the said officer had not given any direction to the employer.

[10] Consequently, as an appeals officer, I do not have the authority under section 146.1 of the *Code* to hear the appeal submitted, since the appeal does not concern either a decision of no danger or the issuance of directions.

[11] The appeal by Normand Vallée is dismissed.

[12] In conclusion, I would like to point out that if Normand Vallée still feels that the employer has violated section 147 of the *Code*, by taking disciplinary action against him because he made use of the rights provided for in the *Code*, Part II, he may, pursuant to sub-sections 133(1) and (2) of the *Code*, address a written complaint to the Canada Industrial Relations Board within 90 days of the date when he learned about this action.

[13] The case is closed.

Pierre Guénette
Appeals Officer

Summary of Appeals Officer Decision

Decision No.: 04-026

Applicant: Normand Vallée

Employer: Royal Canadian Mounted Police

Key Words: Decision of no danger, direction, appeals officer jurisdiction

Provisions: *Code* 128.(1), 129.(7), 133.(1) and (2), 146.(1), 146.1, 147
Regulations

Summary:

The appeal resulted from an investigation conducted by a health and safety officer in response to a complaint concerning a lack of follow-up by the employer in relation to a hazardous situation that occurred in April 2001.

The appeals officer rejected the case because he was not authorized under the *Canada Labour Code*, Part II, to hear it. In actuality, the appeal did not stem from either a decision of no danger rendered by the officer, since there was no refusal to work, or from directions concerning which the employer, employee or union might feel harmed, since the health and safety officer did not issue any directions to the employer after investigating the complaint.