

Canada Labour Code
Part II
Occupational Health and Safety

Defence Construction (1951) Canada
Limited and Russ Perrie
applicants

Decision No. 04-027
August 12, 2004

This case was decided by appeals officer Michèle Beauchamp.

For the applicants

Richard E. Fader, Counsel, Justice Canada

Health and Safety Officer

Lisa Mah, Labour Program, Human Resources Development Canada, British Columbia

- [1] This case concerns an appeal requested on November 18, 2003 under subsection 146(1) of the *Canada Labour Code* (the *Code*), Part II, by Russ Perrie, Vice President, Operations, Defence Construction Canada (1951) Limited (the employer).
- [2] The appeal was made as a result of a direction issued to the employer on October 23, 2003 by health and safety officer Lisa Mah, following her investigation of an accident. The direction, issued under subsection 145(1) of the *Code*, describes the employer's contravention as follows:

The said health and safety officer is of the opinion that the following provision of the *Canada Labour Code*, Part II, has recently been contravened:

The employer did not ensure that the fall protection system provided to employees of contractor B&C Steel Erectors Inc. on 26 September 2003 while working near the unguarded edge of a 0.56 m wide floor opening on the second floor of the 442 Squadron Fixed Wing Building addition at 19 Wing Comox, at a height greater than 2.4 m above the nearest permanent safe level, was being used in accordance with the prescribed circumstances and manner.

The fall protection system included a rope grab for the fixed lanyard, connected to a synthetic rope laid horizontally across the building flooring and secured using a knot to the building structure.

1. Paragraph 125.(1)(w) of the *Canada Labour Code*, Part II and paragraph 12.10(2)(b) of the *Canada Occupational Health and Safety Regulations* and CSA Standard Z259.2-M1979

The rope grab is designed and intended to be installed on a vertical life line, the end of the life line shall be suitably controlled or restrained, according to manufacturer's specifications.

2. Paragraph 125.1(w) of the *Canada Labour Code*, Part II, and section 12.1 of the *Canada Occupational Safety and Health Regulations*

The contractor's employee had not connected his lanyard to the rope grab while working near the unguarded floor opening.

- [3] On February 13, 2004, Richard Fader, counsel for the employer, provided the appeals officer with the employer's written arguments against the direction. He also requested that the appeal be dealt with through an oral hearing.
- [4] On June 16, 2004, the parties were advised that the hearing was to be held on July 6, 2004.
- [5] On June 29, 2004, Richard Fader informed the appeals officer that Defence Construction Canada (1951) Limited was withdrawing his appeal into health and safety officer Mah's direction.
- [6] As the appeals officer responsible for the case, I confirm that Defence Construction Canada (1951) Limited has withdrawn his appeal. After reviewing the file, the case is closed.

Michèle Beauchamp
Appeals Officer

Summary of Decision

Decision No.: 04-027

Applicant: Defence Construction Canada (1951) Limited

Key Words: Direction, appeal

Provisions: *Code* 145(1), 146(1)
Regulations

Summary:

The applicant appealed a direction issued under subsection 145(1) of the *Canada Labour Code*, Part II. He submitted arguments against the direction and requested that it be dealt with through an oral hearing. After a hearing date had been set, the applicant withdrew his appeal. After reviewing the file, the case is closed.