

Canada Labour Code
Part II
Occupational Health and Safety

Public Service Alliance of Canada
applicant

and

Indian and Northern Affairs Canada
employer

Decision No. 04-036
November 5, 2004

This case was decided by Thomas Farrell, appeals officer.

- [1] On January 2, 2002, Ms. Donna Wojcik, a Post-Secondary Student Support Clerk employed at Indian and Northern Affairs Canada regional office located at 275 Portage Avenue, Winnipeg, Manitoba exercised her right to refuse to work at her assigned office on the 15th floor of 235 Portage Avenue, citing poor air quality as the reason for the refusal. Health and Safety Officer Alex Kozubal investigated the complaint on the morning of January 3, 2002. Following his initial visit to the workplace he requested that an Industrial Hygiene Technician test the workplace in question. The technician conducted air quality tests in various locations of the building and the test results were forwarded to the Industrial Hygiene Engineer in Ottawa. The report from the Industrial Hygiene Engineer stated that the air quality tests indicated that the air in the workplace was safe and well above standard. On February 6, 2002 Health and Safety Officer Kozubal issued his decision that danger does not exist. On February 11, 2002 Ms. Wojcik appealed the health and safety officer's decision to an appeals officer pursuant to subsection 129 (7) of the *Canada Labour Code*, Part II.
- [2] As the Appeals Officer assigned to this case I informed the parties involved of my intention to proceed with this appeal in accordance with subsection 146.2 of the *Canada Labour Code*, Part II, without a hearing and render a decision based on the documentation that has been placed on file.
- [3] A timeframe was provided to the appellant to provide any additional information and further time for the employer to respond to this new information.

- [4] On October 19, 2004, I received a letter dated October 13, 2002 from Ms. Joanna Miazga, Regional Representative for the Public Service Alliance of Canada stating, "There is no additional information that I have received from Ms. Wojcik regarding this matter."
- [5] In relation to this appeal filed by Ms. Wojcik, outlined that her concern that the air quality on the 15th floor of the Indian and Northern Affairs building at 235 Portage Avenue was a danger to her due to her specific medical condition. The test results from the industrial hygiene survey conducted in this building clearly indicated that the air quality did not contain any contaminants that would be considered unusual, and in fact the air quality in the building was somewhat better than the air immediately outside the building.
- [6] In the matter of the appeal of the decision of 'no danger' made by Health and Safety Officer Alex Kozubal on February 6, 2002 regarding the air quality on the 15th floor of 235 Portage Avenue in Winnipeg.
- [7] I have reviewed all the information provided by the applicant as well as the medical information provided and the information that was provided by the employer. I have concluded that Health and Safety Officer Kozubal's decision of no danger was correct and I therefore confirm the decision.

Thomas Farrell
Appeals Officer

Summary of Decision

Decision No.: 04-036

Applicant: Public Service Alliance of Canada

Employer: Indian and Northern Affairs Canada

Key Words: Decision, refusal to work, air quality

Provisions: *Code* 129(7)
Regulations

Summary:

The applicant refused to work because of poor air quality. Following his investigation, the health and safety officer requested that an industrial hygiene technician test the air quality in the workplace. The test resulted in the air quality being safe and well above standard. The appeals officer therefore confirmed the health and safety officer's decision that a danger did not exist.