

Canada Labour Code
Part II
Occupational Health and Safety

M. V. Blake
applicant

and

Securicor Canada Limited
respondent

Decision No. 05-015
March 30, 2005

These appeals made pursuant to subsection 129(7) of the *Canada Labour Code* were decided by Douglas Malanka, appeals officer.

[1] On August 7, 2003, at approximately 12:15 hours, armed guard M.V. Blake refused to carry out his stop at the Toronto Dominion bank machine located in the North Renfrew Mall in Renfrew, Ontario. Following the employer's unsuccessful effort to resolve the matter, health and safety officer (HSO) Tammy Edwards arrived to investigate into M.V. Blake's continued refusals to work. M.V. Blake complained to HSO Edwards that a danger existed because Securicor had reduced the crew size for the shift from three persons to two, such that there was no driver to remain with their vehicle while the crew conducted the stop. M.V. Blake wrote:

No communication from crew to outside source. No driver in vehicle to act as a constant deterrent and line of communication to outside sources – A deterrent to robbery. A lack of faith on my part in the equipment to use and training that has been provided in doing two person off. I believe that to do two person off with no driver is very unsafe. I would have no communication in the event of a robbery. My hands would be up, and not reaching for some button or phone. To do so, would cause me, my partner, or an innocent bystander great harm.

[2] Following her investigation, HSO Edwards decided that a danger did not exist for M.V. Blake and confirmed her decision in writing on August 8, 2003.

[3] On August 13, 2003, M.V. Blake appealed to an appeals officer the decision of HSO Edwards pursuant to subsection 129(7) of the *Code*.

- [4] On February 4, 2005, Mr. E. Torre, National Representative, CAW-TCA-Canada wrote on behalf of M.V. Blake to withdraw his appeal of the decision of HSO Edwards. A copy of withdrawal was forwarded to Securicor.
- [5] Mr. Torre explained that the appeals was withdrawn because the circumstances in the refusal to work were similar to those in the C. Brazeau, B. Martin, B. Thoms, B. Woods, A. Ozga and P. Gour and Securicor Canada Ltd. Decision No. 04-049, that I rendered on December 16, 2004. In that decision, I found that a danger existed for the employees and directed Securicor to immediately alter the activity that constitutes the danger or protect any person from the danger.
- [6] The untested facts in this case confirm Mr. Torre's assertion that the circumstances in the appeal were essentially similar to those in the above noted decision. In the absence of any objection from Securicor Canada or any other reason to do otherwise, I have accepted the withdrawal and closed the file on this appeal.

Douglas Malanka
Appeals Officer

Summary of Appeals Officer's Decision

Decision No.: 05-015

Appellants: M.V. Blake

Respondent: Securicor Canada Limited

Key Words: Refusal to work, crew reduction, driver, 2-person-off crew, S-Series vehicle, unsecured vehicle, ambush, armed robbery, danger,

Provisions: *Canada Labour Code* 129(7)
Regulation

Summary:

The applicant withdrew the appeals made pursuant to 129(7) of the *Code* and the appeals officer closed the file.