

Canada Labour Code
Part II
Occupational Health and Safety

Erik Huitink
applicant

and

Vancouver Wharves Ltd.
employer

Decision No. 05-018
April 5, 2005

This case was decided by appeals officer Pierre Rousseau.

- [1] This case concerns an appeal pursuant to subsection 129(7) of the *Canada Labour Code*, Part II, by Leah Terai of Laughton & Company, Barrister and Solicitors, on behalf of Erik Huitink, Foreman at Vancouver Wharves Ltd., North Vancouver, British Columbia, against a written decision of absence of danger issued by health and safety officer Mac Maxton on January 19, 2005. The said decision was given to the employee on January 17, 2005.
- [2] On January 13, 2005, the employee refused to work for the reason described in the investigation report by health and safety officer Mac Maxton:
- Statement of the refusal to work:
- I was asked to run 2 separate operations. I had 2 people on the ship loading system and 2 labourers on the rail without experience. I was stressed out running both operations and I felt I could not provide adequate supervision to the inexperienced labourers.
- [3] On March 31st, 2005, a fax was sent to the Canada Appeals Office on Occupational Health and Safety by Leah Terai to request, on behalf of Mr. Huitink, the withdrawal of their appeal dated January 25, 2005.
- [4] I hereby accept Mr. Huitink's withdrawal and confirm that this file is closed.

Pierre Rousseau
Appeals Officer

Summary of Appeals Officer Decision

Decision No.: 05-018

Applicants: Erik Huitink

Employer: Vancouver Wharves Ltd.

Key Words: Refusal to work, danger, supervision of employees

Provisions: *Code 128; 129(7)*

Canadian Occupational Health and Safety Regulations: N/a.

Summary:

A health and safety officer investigated a refusal to work from a foreman who had to supervise 4 employees in two different work sites. The health and safety officer decided there was no danger. The employee appealed the decision and later decided to withdraw.