

Canada Labour Code
Part II
Occupational Health and Safety

Keith Corston
Carl Ouimet
Locomotive Engineer
applicants

and

Canadian Pacific Railway
respondant

Decision No.: 05-026
June 2, 2005

This appeal made pursuant to subsection 129 (7) of the *Canada Labour Code* was decided by Richard Lafrance, Appeals Officer.

For the applicant:

Michael A. Wheten, Chairman, Brotherhood of Locomotive Engineers

For the Respondent:

Mike Imbeault, Manager, Road Operations, Northern Ontario Service, Canadian Pacific Railway Company.

- [1] This case concerns an appeal made on April 11, 2003, under subsection 129 (7) of the *Canada Labour Code*, Part II, by Michael Wheten, Chairman of the Brotherhood of Locomotive Engineers on behalf of Keith Corston Locomotive Engineer employed by Canadian Pacific Railway Company.
- [2] The applicant refused to work on April 1, 2003 on the basis that the road that he had to travel on to get to the work place was very narrow, and that there was no room to meet oncoming traffic. He further indicated that the road was very hilly and icy.
- [3] Health and safety officer Fancy Smith investigated the refusal and rendered a decision of no danger.
- [4] Michael Wheten, representative for the employee, in a letter addressed to this Office, expressed concern with regard to the fact that in addition to the conditions of the road, there was no posted speed on the road as well as no road signs to indicate sharp curves hills, etc.

- [5] On May 19, 2005, Mike Wheten, wrote to this office to indicate that they were withdrawing the appeal as they considered the appeal resolved following a written agreement with the employer that addressed their safety concerns.
- [6] Therefore, after review of the file, I accept the employee's withdrawal, and confirm that the file is closed.

Richard Lafrance
Appeals Officer

Summary of Appeals Officer's Decision

Decision No.: 05-026

Applicant: Keith Corston, Carl Ouimet

Employer: Canadian Pacific Railway Company

Key Words: Decision, refusal to work, road,

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

Summary:

The applicants appealed a decision of no danger issued by a health and safety officer following a refusal to work. The applicants withdrew their appeal and the appeal officer closed the file.