

**Canada Labour Code**  
**Part II**  
**Occupational Health and Safety**

Correctional Service Canada  
*applicant*

and

UCCO-SACC-CSN  
*respondent*

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Decision No. : 05-027  
June 13, 2005

This case was decided by Pierre Guénette, appeals officer.

- [1] This case concerns an appeal made on April 27, 2004 by Richard E. Fader, Counsel, on behalf of Correctional Service Canada, under section 146(1) of the *Canada Labour Code* (the *Code*), Part II.
- [2] The appeal was made as a result of a direction issued on April 13, 2004 by health and safety officer Bob Tomlin, following an investigation of the refusal to work of Rob Aldred, Correctional Officer, on March 11, 2004, at Warkworth Institution, in Warkworth, Ontario.
- [3] The said direction was the following:

The said health and safety officer considers that a condition in a place constitutes a danger to an employee while at work:

124 *Canada Labour Code*, Part II, Occupational Health and Safety

Every employer shall ensure that the safety and health at work of every person employed by the employer is protected.

A Correctional Officer II, with a recently diagnosed medical condition was required to work in an environment containing second-hand smoke, which would adversely affect the medical condition.

Therefore, you are HEREBY DIRECTED, pursuant to paragraph 145(2) of the *Canada Labour Code*, Part II to protect the Correctional Officer II from the hazard or condition that constitutes the danger immediately.

[4] On May 31, 2005, Harvey A. Newman, Senior Counsel, on behalf of Correctional Service Canada sent a letter to advise J. Paris of the Canada Appeals Office on Occupational Health and Safety, that the employer wished to withdraw its appeal of the direction issued on April 13, 2004.

[5] I hereby accept the employer's withdrawal and confirm that the file is closed.

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Pierre Guénette  
Appeals Officer

## Summary of Appeals Officer's Decision

**Decision No.:** 05-027

**Applicant:** Correctional Service Canada

**Respondent:** UCCO-SACC-CSN

**Key Words:** Refusal to work, second-hand smoke, direction, danger, hazard.

**Provisions:** *Canada Labour Code* 124, 145(2)(a), 146(1)  
Regulation

### Summary:

The applicant appealed a direction following an investigation of a refusal to work related to the second-hand smoke from inmates inside the Warkworth Institution. The applicant further withdrew his appeal and the appeals officer closed the file.