

Canada Labour Code
Part II
Occupational Health and Safety

R. Dastous
applicant

and

SECURICOR CASH SERVICES INC.
Toronto (Ontario)
Respondent

Decision No.: 05-029
July 7, 2005

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

- [1] This case concerns an appeal that R. Dastous made under subsection 129 (7) of the *Canada Labour Code*, Part II, on May 6, 2004.
- [2] R. Dastous was appealing the written decision of absence of danger issued by health and safety officer (HSO) Bob Tomlin after investigating his refusal to work on May 4, 2004.
- [3] According to the HSO Tomlin's investigation report, on May 4, 2004, at approximately 06:45, R. Dastous refused to work at the terminal yard in the position of custodian. At the time, R. Dastous's job required him to lift and manoeuvre boxes of coins on an "R" series retrofitted armoured truck to be delivered to a customer.
- [4] To load the boxes of coins, he had to move them through an opening from the rear compartment to the middle compartment of the truck. To accomplish this, he had to enter the rear compartment, bend over and/or kneel on the steel floor of the truck, pick up a box and then twist his upper body while holding the box and place it on the floor of the middle compartment. Because R. Dastous is taller than the head room inside the truck, which is about 5 feet 6 inches in this series truck, he could not stand up straight to carry the boxes, causing him to be hunched over when walking inside the truck. Upon arrival at the customer's site, he had to unload the boxes of coins and use the side door of the truck to do so. This required him to bend at the waist and extend his torso about 16 inches into the middle compartment over 2 steps, lift the coin box and then carry it or place it on a two wheel cart to remove it and take it to the customer.

- [5] R. Dastous refused to do the job because he believed that the twisting of his torso, having to hunch over inside the truck and extending over the steps to pick up boxes will cause him to suffer a back injury. His concerns were that the training he was given to manually lift the boxes and posters in the work place both indicate that he should keep the material to be lifted close to his body, stand straight and not twist while lifting and carrying the boxes. He stated that he could not comply with these procedures given the conditions in which he performed the work.
- [6] Essentially, the employer stated that he agreed with the procedures as described above on how the work was performed. He added that the steps in loading and unloading had been developed as a result of concerns for security of the coins and other valuables they deliver.
- [7] However, the employer believed that R. Dastous was trained on proper lifting techniques from information the employer had received from the Workers Safety and Insurance Board (WSIB). The employer also provided him a copy of the training material and posters demonstrating proper lifting techniques were posted in the work place. The employer believed the training provided and the ability for individuals to vary the technique was sufficient to minimize the risks of injury that may be associated with this work.
- [8] Following the employer's unsuccessful effort to resolve the matter, HSO Tomlin investigated on May 4, 2004, into R. Dastous's continued refusal to work.
- [9] Although the training did not take into account the conditions under which the work was performed, HSO Tomlin decided that a danger did not exist for R. Dastous because:
- the employee was given a degree of training in proper lifting techniques that was developed with information obtained from WSIB which must be considered a credible institution;
 - the employee was also provided with documentation on lifting and with reminder posters located in the work place;
 - the employee was free to vary the technique to accommodate individual needs;
 - no known injury was reported by an employee required to perform this work.
- [10] HSO Tomlin confirmed his decision of absence of danger in writing on May 5, 2004.
- [11] On June 27, 2005, R. Dastous wrote to withdraw his appeal. R. Dastous indicated that both parties considered the appeal resolved following a written agreement which was sent by the employer on the same date.
- [12] On this settlement, the respondent, Securicor, agreed to complete specific modifications to the retrofitted vehicles to assist in the handling of coins. Both parties also agreed to determine a timeline for the work to be completed.

- [13] As a consequence, based on the written agreement by the parties and HSO Tomlin's investigation report in the file, I hereby accept the employee's withdrawal, and confirm that the file is closed.

Katia Néron
Appeals Officer

Summary of Appeals Officer's Decision

Decision No.: 05-029

Applicant: Ron Dastous

Respondent: SECURICOR CASH SERVICES INC.
Toronto (Ontario)

Key Words: Decision, refusal to work, manual lifting and manoeuvring boxes of coins, possible back injury

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

Summary:

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