

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

Garda du Canada Inc.  
*applicant*

and

Syndicat National des Convoyeurs de Fonds  
CUPE local 3812  
*respondent*

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Decision No. 05-040  
September 14, 2005

This case concerning an appeal filed pursuant to subsection 146(1) of the *Canada Labour Code*, Part II, was decided by appeals officer Katia Néron.

**For the applicant**

Éric Perreault, Supervisor, Health, Safety and Social Benefits

**For the respondent**

François Legendre, President, *Syndicat National des Convoyeurs de Fonds*, CUPE local 3812

**Health and safety officer**

Ginette M. Pinsonneault  
Human Resources and Skills Development Canada  
Labour Program  
Montreal, Quebec

- [1] This case concerns an appeal filed pursuant to subsection 146(1) of the *Canada Labour Code*, Part II, on March 30, 2005, by Éric Perreault, Supervisor, Health, Safety and Social Benefits for Garda du Canada Inc., against a direction issued on March 17, 2005, by health and safety officer (HSO) Ginette M. Pinsonneault.
- [2] HSO Pinsonneault issued the direction in question after conducting an inquiry into a refusal to work by Pierre Boisvert, an armoured truck driver for Garda du Canada Inc.
- [3] According to the investigation report submitted by HSO Pinsonneault, on March 9, 2005, P. Boisvert had been assigned to drive truck 95-21 and transport valuables in Trois Rivières, Quebec, and the surrounding area. P. Boisvert exercised his right of refusal to work because he believed it was dangerous for him to carry out the work involved, due to the lack of space around the driver's seat in truck 95-21 and his own height (6'3").

[4] As P. Boisvert had already driven truck 95-21 in 2004, he stated that the lack of space around the driver's seat, in combination with his height, did not allow him to drive safely and presented risks to his health for the following reasons:

- with little space between his knees and the steering wheel, it was difficult to reach the brake pedal;
- as his field of vision was restricted and he was forced to tilt his head to see properly, driving vehicle 95-21 caused him to suffer neck pain;
- as it was difficult to reach the 12-gauge shotgun located to the right of the steering wheel and P. Boisvert had to twist around to reach it, this caused him to suffer back pain;
- as P. Boisvert's head was close to the vehicle roof, whenever he drove along a bumpy road, his head struck the roof.

[5] According to the employer, there was no danger to P. Boisvert because:

- although it was expected to drive this replacement truck for a period of about three months while other trucks were being painted, vehicle 95-21, a 1995 model, was in good condition and had undergone the same maintenance as the other trucks;
- truck 95-21 was only to be used for transporting valuables in the city of Trois-Rivières, and not for long distances outside the city;
- the problems cited by P. Boisvert were related to his personal circumstances and no other employee had complained about similar problems while operating vehicle 95-21.

[6] Because no settlement was reached and P. Boisvert believed that the danger still existed, he maintained his refusal to work. HSO Pinsonneault was then assigned to conduct an inquiry into the case. She carried out her inquiry on March 9, 2005, at the work place.

[7] After her investigation, in the course of which she observed P. Boisvert seated at the wheel of vehicle 95-21 and took measurements of the working area, HSO Pinsonneault concluded that P. Boisvert had been put in danger, for the following reasons:

- even with the seat pushed back as far as possible and in its lowest position, the measurements indicated that P. Boisvert indeed had little free space in which to move his legs and other parts of his body, which resulted in abnormal postural constraints, difficulties in reaching the vehicle controls and an increased risk of injury in the event of an accident (injuries to the head and limbs);
- furthermore, P. Boisvert's eyes were level with a point just above the windshield, even when the seat was in its lowest position, resulting in reduced visibility which he had to compensate for by tilting his head.

[8] HSO Pinsonneault issued a direction to the employer on March 17, 2005, pursuant to paragraph 145(2)(a) of the *Canada Labour Code*, Part II.

[9] The wording of the direction issued by HSO Pinsonneault reads as follows [translation]:

The said health and safety officer maintains that carrying out the task at issue, namely driving vehicle 95-21, constitutes a danger for Mr. Pierre Boisvert, given that:

When Mr. Pierre Boisvert is operating vehicle 95-21, he experiences reduced visibility and would experience problems in handling the vehicle controls properly in an emergency situation. There is also a risk of aggravated injuries in the event of an accident (injuries to the head and limbs) and occupation-related injuries may result from the abnormal constraints on his posture.

[10] On September 7, 2005, E. Perreault provided notice in writing to withdraw the appeal.

[11] Given the written request to withdraw and after duly examining the case file, I accept the request to withdraw and declare the case closed.

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Katia Néron  
Appeals Officer

## Decision Summary

**Decision No.:** 05-040

**Employer:** GARDA DU CANADA INC.

**Respondent:** *Syndicat National des Convoyeurs de Fonds*  
CUPE local 3812

**Keywords:** Refusal to work, decision of existing danger, lack of space around the steering wheel of an armoured truck due to the employee's unusual height.

**Provisions:** *Canada Labour Code* 146(1)  
Regulations

### Summary:

The employer appealed a direction issued by a health and safety officer following an investigation by the officer concerning the employee's refusal to work. The employer withdrew the appeal and the appeals officer declared the case closed.