

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

Douglas Martin  
*appellant*

and

Parks Canada Agency  
*respondent*

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September 11, 2007

This matter is decided by Appeals Officer Douglas Malanka.

**For the appellant**

Mr. Andrew Raven, Counsel, Raven, Cameron, Ballantyne & Yazbeck

[1] This case concerns an appeal by Park Warden Douglas Martin on July 12, 2001 made pursuant to subsection 129(7) of the *Canada Labour Code*, Part II (the *Code*). Park Warden Douglas Martin appealed the decision of Health and Safety Officer (HSO) Bryan Lloyd on July 10, 2001 that a danger did not exist in respect of warden activities at Lake Minniwanka, Banff National Park. Subsection 129(7) of the *Code* reads:

129(7) If a health and safety officer decides that the danger does not exist, the employee is not entitled under section 128 or this section to continue to refuse to use or operate the machine or thing, work in that place or perform that activity, but the employee, or a person designated by the employee for the purpose, may appeal the decision, in writing, to an appeals officer within ten days after receiving notice of the decision.

[2] On June 18, 2001, Park Warden Douglas Martin made a complaint of danger under paragraph 127.1(8)(c) of the *Code*. HSO Lloyd commenced his investigation into the complaint on July 3, 2001. At the conclusion of his investigation, HSO Lloyd advised Park Warden Douglas Martin and Parks Canada on July 10, 2001 that the complaint by Park Warden Douglas Martin was not justified.

- [3] The hearing on this appeal was deferred pending the final outcome of the judicial review application in respect of the decision of Appeals Officer Serge Cadieux in the case of Parks Canada Agency versus Douglas Martin and Public Service Alliance of Canada, Decision No. 02-009, dated May 23, 2001.
- [4] On July 16, 2007, following the decision rendered on the appeal of Parks Canada Agency versus Douglas Martin and Public Service Alliance of Canada, Decision No. CAO-07-015, dated May 8, 2007, Michel Parent, A/Case Management Officer, Canada Appeals Office on Occupational Health and Safety wrote to parties to schedule a hearing to hear the appeal by Park Warden Douglas Martin.
- [5] On August 17, 2007, Lisa Addario wrote as counsel to confirm that Park Warden Douglas Martin wished to withdraw his appeal.
- [6] Considering the above and having reviewed the file, this appeal is withdrawn and this case is closed.

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Douglas Malanka  
Appeals Officer

## Summary of Appeals Officer Decision

**Decision:** CAO-07-032

**Appellant:** Park Warden Douglas Martin

**Respondent:** Parks Canada Agency

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

**Keywords:** Danger, law enforcement, marine environment, RCMP, withdrawal.

### Summary:

On July 12, 2001 Park Warden Douglas Martin appealed the health and safety officer's finding in respect of his complaint of danger under paragraph 127 (8)(c) of the *Code*. However, on August 17, 2007, Lisa Addario, Counsel, wrote on behalf of Park Warden Douglas Martin to confirm that he wished to withdraw his appeal before an appeals officer. The case is therefore closed.