

Case No.: 2006-20  
Decision No.: CAO-07-033

***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

**For the respondent**

Mr. Richard Fader, Counsel, Treasury Board Legal Services

- [1] This case concerns an appeal by Park Warden Douglas Martin on March 14, 2006 made pursuant to subsection 129(7) of the *Canada Labour Code*, Part II (the *Code*). Park Warden Douglas Martin appealed Health and Safety Officer (HSO) Douglas Gould decision on March 9, 2006 that a danger did not exist for Park Warden Douglas Martin. 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 October 12, 2005, Park Warden Douglas Martin refused to work pursuant to section 128 of the *Code*. HSO Gould commenced his investigation into Park Warden Douglas Martin's refusal to work on October 21, 2005. At the conclusion of his investigation, HSO Gould advised Park Warden Douglas Martin and Parks Canada on March 9, 2006, that a danger did not exist for Park Warden Douglas Martin.

- [3] 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.
- [4] On August 27, 2007, Lisa Addario wrote as counsel to confirm that Park Warden Douglas Martin wished to withdraw his appeal.
- [5] Considering the above and having reviewed the file, this appeal is withdrawn and this case is closed.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-07-033

**Appellant:** Park Warden Douglas Martin

**Respondent:** Parks Canada Agency

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

**Keywords:** Danger, shot guns, body armour, satellite phones, VHF radio coverage, back-up, stopping vehicles, BOLFs, law enforcement, withdrawal.

### **Summary:**

On March 14, 2006 Park Warden Douglas Martin appealed the health and safety officer's finding of no danger in respect of his refusal to work under section 128 of the *Code* on October 12, 2005. However, on August 27, 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.