

Case No.: 2006-61  
Decision No.: CAO-07-035

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

Longshoremen's Union, Canadian Union of  
Public Employees, local 375  
*appellant*

and

Terminus Racine (Montréal) Ltd.  
*respondent*

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September 14, 2007

This case was decided by Appeals Officer Katia Néron.

**For the appellant**

Normand Léonard, Counsel, Lamoureux, Morin, Lamoureux

**For the respondent**

Daniel Tremblay, Terminus Racine (Montréal) Ltd.

- [1] The present case is an appeal filed on November 9, 2006 pursuant to subsection 129(7) of the *Canada Labour Code, Part II* by Vincent Thomin, union health and safety advisor, Longshoremen's Union, Canadian Union of Public Employees (CUPE), local 375, on behalf of Robert Caron, a longshoreman in the port of Montréal.
- [2] On October 24, 2006, at about 8:30 a.m., Mr. Caron and 54 other longshoremen working in the work place of Terminus Racine (Montréal) Ltd., a longshoring company operating in the port of Montréal, refused to work on the following ground.
- [3] Since September 25, 2006, the inspection of empty containers at the entry to the terminal had been conducted by persons who were not the subject of an administrative check. As well, since that date, this inspection had no longer been conducted during each of the longshoremen's shifts, but only between 6:00 a.m. and 4:00 p.m. In the opinion of the longshoremen concerned, that situation therefore created a danger to their safety.
- [4] Following his investigation, Health and Safety Officer (HSO) Claude Léger found that there was no danger to the employees, for the following reasons:

- until September 25, 2006, the purpose of the inspections of empty containers had not been to check for the presence of materials that could be used for terrorist activities;
- since September 25, 2006, it had been the carrier's responsibility to deliver empty containers to the Racine terminal [translation] "ready for use", that is, clean and in good condition;
- the duty of the checkers in the booth at the entry to the terminal is to check for the presence of a seal certifying that an inspection has been conducted; the city driver signs a document confirming that that person has followed the empty container return policy of Montréal Gateway Terminals;
- the port authorities responsible for the port of Montréal security plan do not require terminal tenants to inspect empty containers arriving at the port terminals; and
- at the time of HSO Léger's investigation, no information had been brought to his attention about a specific threat of the presence, in empty containers at the Racine terminus in the port of Montréal, of materials that could be used for terrorist activities.

- [5] On October 24, 2006, HSO Léger confirmed his decision of no danger in writing.
- [6] On July 13, 2007, on behalf of Mr. Thomin, counsel Normand Léonard indicated in writing that the appeal filed by Mr. Thomin had been withdrawn.
- [7] On the basis of HSO Léger's investigation report included in the file, the Appeals Officer hereby accepts the withdrawal of the appeal filed by Mr. Thomin and confirms that the case is closed.

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Katia Néron  
Appeals Officer

## **Summary of Decision by Appeals Officer**

**Decision No.:** CAO-07-035

**Appellant:** Longshoremen's Union, Canadian Union of Public Employees, local 375

**Respondent:** Terminus Racine (Montréal) Ltd.

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

**Key words:** Empty containers, longshoremen, no danger, withdrawal

### **Summary:**

On November 9, 2006, the Longshoremen's Union filed an appeal of the no danger decision by HSO Claude Léger.

On July 13, 2007, on behalf of Mr. Thomin, counsel Normand Léonard indicated in writing that the appeal filed by Mr. Thomin had been withdrawn. The case is therefore closed.