

Case No.: 2006-53  
Decision No.: CAO-08-001

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

Air Canada  
*appellant*

and

Canadian Union of Public employees  
(CUPE)  
*respondent*

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January 30, 2008

This case was decided by Appeals Officer Pierre Guénette.

**For the appellant**

Rachelle Henderson, counsel

**For the respondent**

James Robbins, counsel

This case concerns an appeal made on August 31, 2006, pursuant to subsection 146(1) of the *Canada Labour Code*, Part II (the *Code*), by Rachelle Henderson, Counsel, Labour and Employment, Air Canada.

- [1] The appeal is against a direction issued to Air Canada on August 2, 2006, by health and safety officer Françoise Dehaye (HSO Dehaye) pursuant to paragraph 145(1)(a) of the *Code*.
- [2] France Pelletier, the employee Co-chair of the In-Flight Service Policy Committee submitted a complaint to Transport Canada on May 16, 2005. The purpose of the complaint was due to the fact that employee representatives on workplace health and safety committees and the policy committee were not being notified of hazardous occurrences by the employer. In addition, she complained that the employer changed the procedure for hazardous occurrences notification without consultation with employee representatives of the Policy Committee.
- [3] On completion of her investigation, HSO Dehaye issued a direction to Air Canada on August 2, 2006.

[4] The direction states:

### **Direction to Air Canada Under Subsection 145 (1)**

After investigating a complaint that was received May 16<sup>th</sup>, 2005, the undersigned health and safety officer is of the opinion that the following provisions of the *Canada Labour Code*, Part II, and the *Aviation Occupational Safety and Health Regulations* are being contravened:

Paragraph 125.(1) (z.08) of the *Canada Labour Code*, Part II

“...every employer shall...cooperate with the policy and work place committees or the health and safety representative in the execution of their duties under this Part;”

Paragraph 125.(1) (z.09) of the *Canada Labour Code*, Part II

“...every employer shall...develop health and safety policies and programs in consultation with the policy committee or, if there is no policy committee, with the work place committee or the health and safety representative;”

Subsection 9.3 (c) of the *Aviation Occupational Safety and Health Regulations*

“Where an employer is aware of an accident, occupational disease or other hazardous occurrence affecting any of the employees in the course of employment on an aircraft, the employer shall, as soon as possible, ...notify the safety and health committee or the safety and health representative, if either exists, of the hazardous occurrence and of the name of the qualified person appointed to investigate it.”

The employer did not consult with the Policy Committee in the development of the call-out process and its modifications which were submitted to Transport Canada in January 2006. Also, the Work Place Committee employee representatives were not, in many instances, informed by the employer of hazardous occurrence affecting flight attendants.

Therefore, you are hereby Directed, pursuant to paragraph 145(1)(a) of the *Canada Labour Code*, Part II, to terminate the above contraventions by September 1<sup>st</sup>, 2006.

Issued at Montreal this 2<sup>nd</sup>, day of August 2006.

[5] While in the process to schedule the hearing, a fax letter dated January 28, 2008 from the appellant’s counsel was received at the Canada Appeals Office on Occupational Health and Safety (Appeals Office).

- [6] The said letter advised the Appeals Office that Air Canada was withdrawing its appeal of the direction issued on August 2, 2006 by HSO Dehaye.
- [7] Considering the written notification to withdraw the appeal and having reviewed the file, this appeal is withdrawn and this case is closed.

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Pierre Guénette  
Appeals Officer

## Summary of Appeals Officer Decision

**Decision:** CAO-08-001

**Appellant:** Air Canada

**Respondent:** Canadian Union of Public employees (CUPE)

**Provisions:** *Canada Labour Code*, 146(1), 145(1)(a), 125.(1) (z.08), 125.(1) (z.09)  
*Aviation Occupational Safety and Health Regulations*, 9.3 (c)

**Keywords:** Direction, complaint, notification of hazardous occurrences, withdrawal.

### Summary:

On August 31, 2006, Rachelle Henderson, Counsel, Labour and Employment, Air Canada appealed a direction issued by HSO Dehaye on August 2, 2006. On January 28, 2008, Ms Henderson withdrew her appeal. The case is therefore close.