

Case No.: 2007-21
Decision No.: CAO-008-005

Canada Labour Code
Part II
Occupational Health and Safety

Canadian National Railway Company
appellant

and

International Brotherhood of Electrical
Workers
respondent

February 27, 2008

This case was decided by Appeals Officer Jean-Pierre Aubre.

For the appellant

Mr. Nizam Hasham, Eastern Regional Counsel, Canadian National Railway Company

For the respondent

Mr. Donald McLaughlin, International Brotherhood of Electrical Workers

- [1] This case concerns an appeal made on July 27, 2007, pursuant to section 146 of the *Canada Labour Code (Code)*, by Canadian National Railway Company (CN) against a Direction issued on June 28, 2007, by health and safety officer Nicole Dubé relative to a workplace accident that occurred on April 19, 2007 in Cornwall, Ontario, at the site identified as Mileage Point 66.7, Kingston subdivision, and which resulted in the loss of life of CN employee, Ms. Carole Larouche.
- [2] The direction, which had been issued pursuant to paragraph 145(1)(a) of the *Code* in relation to a contravention of paragraph 125(1)(z.04) of the *Code* and section 19.4 of the *Canada Occupational Health and Safety Regulation* stated as follows:

The employer has not identified and assessed the hazard of being stuck by a locomotive engine while an employee is required to perform work alone in close proximity to the rail lines, which includes the preventative measures to prevent or to reduce the hazard.

- [3] On January 17, 2008, both parties were informed by letter from the Canada Appeals Office on Occupational Health and Safety now known as the Occupational Health and Safety Tribunal Canada, that the undersigned Appeals Officer had decided to proceed with hearing this appeal without further delay and were asked to indicate which of the proposed hearing dates would be agreeable to them.
- [4] By letter dated January 22, 2008, Mr. Donald McLaughlin indicated that the respondent would be ready to proceed with the hearing of the appeal on April 8, 2008.
- [5] On January 24, 2008, in a letter addressed to the Canada Appeals Office on Occupational Health and Safety, Mr. Nizam Hasham, counsel for the appellant, informed the tribunal that it was withdrawing its appeal in this matter.
- [6] Considering the above and having reviewed the file, the appeal is therefore withdrawn and the case is consequently closed.

Jean-Pierre Aubre
Appeals Officer

Summary of Appeals Officer Decision

Decision: CAO-08-005

Appellant: Canadian National Railway Company

Respondent: International Brotherhood of Electrical Workers

Provisions: *Canada Labour Code*, 146, 125.(1)(z.04),

Canada Occupational Health and Safety Regulations, 19.4

Keywords: Direction, workplace accident, withdrawal.

Summary:

On July 27, 2007, Canadian National Railway Company appealed a direction issued by HSO Nicole Dubé. On January 24, 2008, Mr. Nizam Hasham, counsel for the appellant withdrew the appeal. The case is therefore close.