

Case No. : 2007-30  
Decision No. : OHSTC-08-06

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

Geoff Hart  
*appellant*

and

G4S Cash Services (Canada) Ltd.  
*respondent*

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March 13, 2008

This appeal was made pursuant to subsection 129(7) of the *Canada Labour Code, Part II* and was decided by Katia Néron, Appeals Officer.

**For the appellant**

Mr. Geoff Hart, employee, G4S Cash Services (Canada) Ltd.

**For the respondent**

Mr. Bryan Etherington, Section Manager, G4S Cash Services (Canada) Ltd.

- [1] This case concerns an appeal made by Mr. Geoff Hart on November 15, 2007 pursuant to subsection 129(7) of the *Canada Labour Code, Part II* (the *Code*). Mr. Hart is an employee of G4S Cash Services (Canada) Limited at a work place located at 675 The Queensway, Peterborough, Ontario. This appeal is in reference to the decision of absence of danger rendered by Health and Safety Officer (HSO) Bob Tomlin on November 9, 2007, following Mr. Hart's refusal to work made on October 29, 2007.
- [2] At the time of his refusal to work, Mr. Hart was designated to be the driver of a "S" series truck. Due to his physical stature and the design of this particular vehicle, he alleged that a danger was created while entering and exiting the vehicle for the two following reasons:
- in the process of entering and exiting the vehicle, he had to slouch and/or place his body in positions that were ergonomically incorrect and this was repeated throughout the day during his shift; he alleged that these repetitious movements presented an ergonomic hazard which caused him injury;

- in the process of entering the vehicle, he was required to stand in a position that exposed his sidearm making it accessible to a person having criminal intent; this situation, according to Mr. Hart, created a danger to his safety.
- [3] Regarding the first reason, HSO Tomlin concluded that there was an absence of danger based on a document produced by the Ontario Ministry of Labour. He determined that Mr. Hart's entering and exiting movements measured by, percentage of time spent at work per shift, was approximately 10% or less of what is considered to be occasional physical demand as opposed to frequent or constant physical demands. He also determined that Mr. Hart had up to 90% of his working time per shift remaining in order to recover from the discomfort following each of the entering and exiting movements that caused his discomfort.
- [4] Regarding the second reason, HSO Tomlin concluded that there was an absence of danger after observing Mr. Hart entering the vehicle in the manner proposed by the employer. Entering the vehicle using this alternative did not expose the sidearm to the public from the open side of the vehicle.
- [5] On February 12 and 13, 2008, the parties agreed to attempt to reconcile the issue through a mediation process. On March 6, 2008, they proceeded to mediation with the assistance of an impartial mediator from the Occupational Health and Safety Tribunal Canada and came to an agreement.
- [6] On March 6, 2008, Mr. Hart notified, in writing, the Occupational Health and Safety Tribunal Canada that a mutually agreed memorandum of a settlement was produced between the parties and he requested that his appeal be withdrawn.
- [7] Considering the above and having reviewed the case file, I duly note the stated intention of the appellant. Therefore, this appeal is withdrawn and this case is closed.

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Katia Néron  
Appeals Officer

## Summary of Appeals Officer Decision

**Decision:** OHSTC-08-006

**Appellant:** Geoff Hart

**Respondent:** G4S Cash Services (Canada) Ltd.

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

**Keywords:** Decision of absence of danger, physical stature, ergonomic, accessibility to sidearm to the public, mediation and withdrawal.

### Summary:

On November 15, 2007, Mr. Geoff Hart appealed a decision of absence of danger issued by HSO Bob Tomlin. On March 6, 2008, the parties came to an agreement with the assistance of an impartial mediator from the Occupational Health and Safety Tribunal Canada. On March 6, 2008, Mr. Hart requested to withdraw his appeal. The Appeals Officer accepted the request. The case is therefore close.