

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

Dean White  
*appellant*

and

Canadian National Railway  
*respondent*

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March 25, 2008

This case was decided by Appeals Officer Richard Lafrance.

**For the appellant**

Todd Cotie, United Steel Workers

**For the respondent**

Nizam Hasham, Counsel, CN Railway

- [1] This matter concerns an appeal made by Dean White on March 21, 2007 pursuant to subsection 129(7) of the *Canada Labour Code*, Part II (the *Code*). The appeal was against a decision of absence of danger rendered on the same day by health and safety officer B. McKeigan (HSO McKeigan) following his investigation of the refusal to work of D. White on March 18, 2007. D. White mandated Todd Cotie of the United Steel Workers to represent him during this appeal process.
- [2] According to the refusal to work registration, D. White refused to work because he believed that he was exposed to a danger when the trains traveling in close proximity to the area where he was working did not slow down when passing that area. He noted that there had been two derailments in the recent past.
- [3] On completion of the investigation of the refusal to work, HSO McKeigan determined, pursuant to subsection 129(4) of the *Code*, that there was absence of danger as understood in Part II of the *Code*.

- [4] On February 11, 2008, Todd Cotie informed by facsimile the A/Case Management Officer of the Occupational Health and Safety Tribunal Canada that D. White was withdrawing his appeal with regards to the decision of absence of danger rendered by HSO McKeigan.
- [5] Considering the above and having reviewed the file, I accept the withdrawal and declare this case closed.

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Richard Lafrance  
Appeals Officer

## Summary of Appeals Officer Decision

**Decision:** OHSTC-08-007

**Appellant:** Dean White

**Respondent:** Canadian National Railway

**Provisions:** *Canada Labour Code*, Part II 128, 129(4) and 129(7)

**Keywords:** Trains, speed, derailment, danger, withdrawal

### Summary:

On March 18 2007, Dean White appealed a decision of absence of danger rendered by Health and Safety Officer McKeigan further to his investigation of the said work refusal by D. White. On February 11, 2008, Todd Cotie on behalf of the appellant withdrew the appeal. The case is therefore close.