

Occupational Health
and Safety Tribunal Canada



Tribunal de santé et
sécurité au travail Canada

Ottawa, Canada K1A 0J2

Case No.: 2007-29
Decision No.: OHSTC-09-003

**CANADA LABOUR CODE
PART II
OCCUPATIONAL HEALTH AND SAFETY**

Canada Post

appellant

and

Paul Geofreda
respondent

Decision No.: OHSTC- 09-003
February 5, 2009

This case was decided by Appeals Officer Richard Lafrance.

For the appellants

S. Bird, Counsel for Canada Post

For the respondent

D. Bloom, Counsel for P. Geofreda

Health and Safety Officer

R. L. Gass

Human Resources and Skills Development Canada

Canada

- [1] This case concerns an appeal made on October 23, 2007 by Canada Post of the direction issued by health and safety officer (HSO) R. Gass.
- [2] On July 5th, 2007 P. Geofreda, employed by Canada post as a Rural and Suburban Mail Carrier (RSMC) refused to deliver mail to certain points of call. He alleged that those stop where unsafe for deliveries due to the fact that there was no road shoulder to completely pull off the road to do the delivery.
- [3] HSO Gass investigated the refusal and upon completion of his investigation, informed the employer that he considered that a danger existed when P. Geofreda was not able to pull completely off the travelled portion of the road while stopping to deliver mail to fifteen rural mail boxes.
- [4] HSO Gass directed the employer, under subsection 145(2)a of the Canada Labour Code, to immediately take measures to protect the employee from the danger. He further directed Canada Post, under Subsection 145(2)b to immediately have P. Geofreda or any other employees cease delivery to the said rural mail boxes until such time as the direction was complied with.
- [5] A hearing was scheduled for January 7 and 8, 2009, however, it was postponed to February 18 and 19, 2009 due to the unavailability of the HSO to be present at the Hearing.
- [6] On February 3, 2009, S. Bird, counsel for the appellant informed the Tribunal that given the fact that the rural mail boxes in question had been out of service for over a year, and that HSO Gass had retired, Canada Post was of the opinion that no purpose was being served by continuing the appeal.
- [7] He further stated that, accordingly, without prejudice to its position that HSO Gass wrongly decided the issue and to any position that Canada Post may subsequently take in matters raising similar or like circumstances, Canada Post decided to wholly withdraw its appeal of the direction.
- [8] Considering the written request to withdraw the appeal and with the understanding that Canada Post has not re-established deliveries to the said boxes unless they are in compliance with the said direction, I accept the withdrawal and declare this case closed.


Richard Lafrance
Appeals Officer