

Occupational Health
and Safety Tribunal Canada



Tribunal de santé et
sécurité au travail Canada

Ottawa, Canada K1A 0J2

Case No.: 2009-24
Decision No.: OHSTC-09-034

CANADA LABOUR CODE
PART II
OCCUPATIONAL HEALTH AND SAFETY

Roch Carrière
Appellant

and

Correctional Service of Canada
(Edmonton Institution)
Respondent

October 19, 2009

This is a decision rendered by Pierre Rousseau, Director / Appeals Officer.

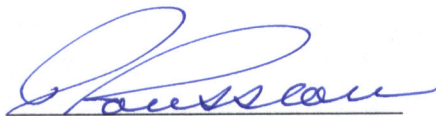
For the appellant

Ms. Jessie Caron, CSN Union Advisor

The respondent

Correctional Service of Canada - (Edmonton Institution)

- [1] Pursuant to our letter dated September 17, 2009 and your letter dated October 1, 2009, I regret to inform you that Mr. Carrière's appeal cannot be entertained by an Appeals Officer. Part II of the *Canada Labour Code* (the Code) provides that Appeals Officers can hear appeals on two grounds: pursuant to a decision of no-danger in the context of a work refusal (129(7) of the Code) or pursuant to the issuance of a direction (146(1) of the Code).
- [2] In the case at hand, your letter clearly indicates that Mr. Carrière's appeal "...is not concerned with a refusal to work..." and that the object of the appeal is the Assurance of Voluntary Compliance (AVC). As reiterated by the Federal Court in *Maritime Employers Association v. Her Majesty the Queen of Canada* et al. 2008 FC 1393, the AVC is neither a procedure nor a step provided by the Code and the appeal process set out in the Code can only be triggered once a direction is issued.



Pierre Rousseau
Director / Appeals Officer