

Occupational Health
and Safety Tribunal Canada



Tribunal de santé et
sécurité au travail Canada

Ottawa, Canada K1A 0J2

Citation: Bell Mobility Inc., 2012 OHSTC 3

Date: 2012-01-24
Case No.: 2012-03
Rendered at: Ottawa

Between:

Bell Mobility Inc., Applicant

Matter: Request for an extension of the time for instituting an appeal

Decision: The request is granted

Decision rendered by: Mr Michael Wiwchar, Appeals Officer

Language of decision: English

For the Applicant: Mr William Hlibchuk, Counsel, Norton Rose OR LLP

REASONS

[1] On January 12, 2012, Bell Mobility Inc. (Bell Mobility) presented an appeal, accompanied with an application for a stay, of two directions issued by Health and Safety Officers from Human Resources and Skills Development Canada, Labour Program.

[2] The first direction, outlining a contravention of paragraph 125(1)(z.04) of the *Canada Labour Code* (the Code), was received by Bell Mobility on October 28, 2011. The second direction, outlining a contravention of paragraph 125(1)(x) of the Code, was received by Bell Mobility on January 4, 2012.

[3] Subsection 146(1) of the Code requires that a direction be appealed to an appeals officer within thirty days after the date of the direction being issued or confirmed in writing. In the case of the first direction issued October 28, 2011, this thirty day period has been exceeded given that it was appealed on January 12, 2012. However, pursuant to paragraph 146.2(f), as an appeals officer I may extend the time for instituting a proceeding. Bell Mobility has requested that I use this power to extend the time for it to appeal the October 28, 2011 direction.

[4] It is important to note that Bell Mobility provided information to the Health and Safety Officer (HSO) in response to the October 28, 2011 direction. Bell Mobility then followed up with the HSO to confirm that the information provided was complete. The HSO, at that time, was unable to attend to Bell Mobility's submissions given other urgent matters.

[5] On January 4, 2012, Bell Mobility received the second direction, which indicated that Bell Mobility had failed to provide an adequate response to the first direction, and required immediate compliance. Bell Mobility understands that this second direction was issued in order to allow it to appeal the matter raised in the first direction, given that there had been a delay in responding to Bell Mobility's queries regarding the sufficiency of its response to the first direction.

[6] These circumstances show, in my view, that Bell Mobility has at all times acted in good faith to move this matter along, and that there may have been some temporary uncertainty with respect to the sufficiency of its response to the first direction. Given that Bell Mobility now wishes to pursue an appeal of the first direction so that it may properly be before the appeals officer along with the second one, I believe that this is an appropriate situation in which to exercise the discretion which is conferred on me.

[7] Consequently, as empowered under paragraph 146.2(f) of the Code, I grant the request to extend the time to file the appeal of the October 28, 2011 direction to the date that it was officially recorded at the Tribunal, that date being January 12, 2012.

Michael Wiwchar
Appeals Officer