

CANADA LABOUR CODE
PART II
OCCUPATIONAL SAFETY AND HEALTH

Review under section 146 of the Canada Labour Code, Part II
of a direction issued by a safety officer

Applicant: Saskatchewan Wheat Pool
Debden Elevator
Saskatoon, Saskatchewan
Represented by: Tim Hogan
Corp. Manager, Health & Safety Services

Respondent: Grain Services Union
Saskatoon, Saskatchewan
Represented by: Alain Gobeil

Mis en cause: Vern Bartlett
Safety officer
Human Resources Development Canada

Before: Serge Cadieux
Regional Safety Officer
Human Resources Development Canada

A visit of the manlift and adjacent ladder at the Debden Elevator took place on November 26, 1996. I was accompanied during the visit by safety officer Vern Bartlett, by Alain Gobeil of the Grain Services Union and by two Saskatchewan Wheat Pool representatives i.e. Theo McCready, Elevator Manager and Omer Baillargeon, Manager, Asset Protection Services. A meeting took place in the office of the Debden Elevator where the parties were given the opportunity to discuss and express their views respecting the direction.

Background

In a memo to his Director, dated May 9, 1996, respecting the inspection of the Debden Elevator safety officer Vern Bartlett wrote, in part, the following:

The above mentioned elevator was inspected April 15, 1996, and an AVC¹ was received to have the escape ladder, adjacent to the manlift, equipped with a cage and platforms in accordance with COSHR 2.8(1) and (2). The ladder is approximately 22 metres in height and could be used as a means of escape if the manlift became stuck or otherwise malfunction (sic).

As mentioned above, the ladder is approximately 22 metres in length and a person ascending or descending the ladder would have absolutely no protection whatsoever...@

The safety officer subsequently confirmed that the AVC had not been honoured and issued a direction (see APPENDIX) to Saskatchewan Wheat Pool to comply. Essentially, the direction requires the ladder to be equipped with a cage and platforms.

Submission for the Employer

Mr. Tim Hogan wrote to the Regional Safety Officer to appeal the direction. The submission was short and reads as follows:

ASaskatchewan Wheat Pool understands that the interior ladder in question does not meet the requirements of the above regulations. SWP is appealing this Direction on the grounds that the Direction is not reasonable or practicable.

This interior ladder was installed as a fixed emergency ladder to be used if there was a malfunction with the manlift. This ladder according to the Elevator Manager is used approximately two times a year. There is an exterior ladder that meets regulations that is used on a regular basis. If SWP were to comply to this Directive we would not have a means to get off the manlift if it malfunctioned. In our opinion this would place our employees in far greater danger than using the emergency ladder.

SWP does not have any records of incidents involving these emergency ladders. We do not believe it would be prudent to spend safety dollars on such a remote risk when there are obvious places that need attention.@

Submission for the Employees

Mr.Gobeil concurs with the employer in this case. Requiring the emergency ladder to be fitted with a cage would result in a situation with a greater hazard to the employee. In an emergency situation, trying to access the ladder from the manlift would be more dangerous if the ladder was equipped with a cage. Such a situation is not desirable from a safety perspective.

¹ "AVC@ means assurance of voluntary compliance. An AVC is a written promise by the employer that a situation of non-compliance will be corrected.

Decision

In a letter to Saskatchewan Wheat Pool, dated December 5, 1996, I explained that the Safety Code for Manlifts, CSA Standard B311-M1979, which governs the use of a hand-powered counterbalanced manlift as provided by paragraph 4.2(2)(b)² of the Canada Occupational Safety and Health Regulations (hereafter the Regulations), was silent on the provision of an emergency ladder. I decided that since a fix ladder, adjacent to the manlift, was already provided as an emergency ladder, I would not address the issue of whether such a means of egress was required by legislation. I would only address the issue of how to escape the manlift in a safe manner, using the fix ladder, should a malfunction occur. As to whether that ladder could be used as a conventional ladder is not an issue before me at this time.

Therefore, the issue to be decided in this case is whether the emergency ladder, adjacent to the hand-powered counterbalanced manlift in use at the Debden Elevator, must be fitted with a cage and platforms as provided by subsection 2.8(1) and (2) of the Regulations? Section 2.8 reads as follows:

2.8(1) Subject to subsection (5), a fixed ladder that is more than 6 m in length shall be fitted with a cage for that portion of its length that is more than 2 m above the base level of the ladder in such a manner that it will catch an employee who loses his grip and falls backwards or sideways off the ladder.

(2) Subject to subsection (5), a fixed ladder that is more than 9 m in length shall have, at intervals of not more than 6 m, a landing or platform that

- (a) is not less than 0.36 m² in area; and
- (b) is fitted at its outer edges with a guardrail.

(3) A fixed ladder, cage, landing or platform referred to in subsection (1) or (2) shall be designed and constructed to withstand all loads that may be imposed on it.

(4) A fixed ladder shall be

- (a) vertical;

² 4.2(1) Every elevating device and every safety device attached thereto shall

- (a) meet the standards set out in the applicable CSA standard referred to in subsection (2) in so far as is reasonably practicable; and
- (b) be used, operated and maintained in accordance with the standards set out in the applicable CSA standard referred to in subsection (2).

(2) For the purposes of subsection (1), the applicable CSA standard for

- (b) manlifts is CSA Standard B311 -M1979, Safety Code for Manlifts, the English version of which is dated October, 1979 and the French version of which is dated July, 1984 and Supplement No. 1-1984 to B311 -M1979, the English version of which is dated June, 1984 and the French version of which is dated August, 1984; and

- (b) securely held in place at the top and bottom and at intermediate points not more than 3 m apart; and
- (c) fitted with
 - (i) rungs that are at least 150 mm from the wall and spaced at intervals not exceeding 300 mm, and
 - (ii) side rails that extend not less than 900 mm above the landing or platform.

(5) Subsections (1) and (2) do not apply to a fixed ladder that is used with a fall-protection system referred to in section 12.10 of Part XII.

The general rule, in this case, is that a fixed ladder must be equipped with a cage and landings or platforms where the ladder exceeds the height prescribed. The purpose of the cage is to catch an employee who loses his/her grip for some reason and falls backwards or sideways off the ladder. Clearly then, if the purpose of the cage is to catch an employee falling backwards or sideways, for all practical purposes it will also prevent that employee from falling through the cage. That being the case, the cage would likewise prevent an employee from entering it from the outside or at least, make it very difficult for that employee to enter the cage to access the ladder. In fact, it would be very dangerous for an employee to attempt to access the ladder to escape the manlift, at some point between the ground level and the top of the elevator, a total distance of 22 metres, if the ladder was equipped with a cage.

In an emergency situation, the employee would have to leave the manlift somewhere in mid-travel and attempt to pass between the bars of the cage in order to grip a rung of the ladder and then pull himself/herself onto the ladder, a feat that requires the skills of an acrobat. In my opinion, this is a highly dangerous and unacceptable situation and for those reasons, a cage and platforms or landings should not be required to be fitted to the ladder.

Nonetheless, accessing the fix ladder from the manlift without using safety equipment would also be hazardous to an employee who would have to ascend or descend the ladder. There is always the possibility of loosing grip of the ladder. That possibility is increased in a grain elevator because the grain dust settles on the rungs of the ladder and makes them dangerously slippery. The visibility is also decreased in a grain dust environment which adds to the problem. During the winter period, frost can also settle on the rungs. There are therefore several good reasons to use safety equipment to use the fix ladder adjacent to the manlift.

Subsections 2.8(1) and (2) above envisage the circumstances where the requirement for a cage and platforms is inappropriate by making those provisions subject to subsection (5). Under subsection 2.8(5) of the Regulations, the requirement for a cage and landings or platforms do not apply to a fixed ladder that is used with a fall-protection system referred to in section 12.10 of Part XII. A reading of section 12.10 of the Regulations will inform the employer of the components of a fall-protection system. In my opinion, subsection 2.8(5) of the Regulations applies in this case. The fixed ladder of the Debden Elevator, which is adjacent to the hand-powered counterbalanced manlift, must be used with a fall-protection system.

For all the above reasons, **I HEREBY VARY** the direction issued on October 17, 1996 under subsection 145(1) of the Canada Labour Code, Part II by safety officer Vern Bartlett to Saskatchewan Wheat Pool by replacing the description of the contravention in the direction i.e.

1. Paragraph 125(b) of the Canada Labour Code and s.s. 2.8(1) & (2) of the Occupational Safety and Health Regulations.@

The fixed interior ladder adjacent the manlift which is approximately 22 metres in height, is not equipped with a cage and landings or platforms.

with the following description, i.e.

1. Paragraphs 125(a) and (p) of the Canada Labour Code and subsection 2.8(5) of the Canada Occupational Safety and Health Regulations.@

The fixed interior ladder adjacent the manlift which is approximately 22 metres in height, must be used with a fall-protection system referred to in section 12.10 of Part XII.

Since I varied the direction, it is only appropriate that the employer be given additional time to comply with the amended order. For this reason, **I ALSO VARY** the direction by changing the date of compliance with the direction from November 29, 1996 to February 17, 1997.

Decision rendered on December 23, 1996

Serge Cadieux
Regional Safety Officer

IN THE MATTER OF THE CANADA LABOUR CODE
PART II (OCCUPATIONAL SAFETY AND HEALTH)

DIRECTION TO THE EMPLOYER UNDER SS. 145(1)

The undersigned Safety Officer, did, on the 15th day of April 1996 attend at the work place operated by Saskatchewan Wheat Pool, being an employer subject to the Canada Labour Code, Part II, at Box 370, Debden, Saskatchewan the said work place being sometimes known as the Saskatchewan Wheat Pool Grain Elevator and having conducted an inspection at the said work place; and being of the opinion that the following provision(s) of the Canada Labour Code, Part II, are being contravened:

A1. Paragraph 125(b) of the Canada Labour Code and s.s. 2.8(1) & (2) of the Occupational Safety and Health Regulations.@

The fixed interior ladder adjacent the manlift which is approximately 22 metres in height, is not equipped with a cage and landings or platforms.

HEREBY DIRECTS the said employer pursuant to paragraph 145(1) of the Canada Labour Code, Part II, to terminate the contraventions no later than the 29th day of November 1996.

Issued at Saskatoon this 17th day of October 1996.

Vern Bartlett
Safety Officer

To: Saskatchewan Wheat Pool
Box 370
Debden, SK
S0J 0S0

SUMMARY OF REGIONAL SAFETY OFFICER DECISION

Applicant: Saskatchewan Wheat Pool

Respondent: Grain Services Union

KEYWORDS

Manlift, ladder, cage, platform, fall-protection system.

PROVISIONS

Code: 125(a), 125(p), 145(1)

COSH Regs: 2.8(1), (2), (5), 12.10

SUMMARY

A safety officer gave a direction to Saskatchewan Wheat Pool which requires the ladder adjacent to a hand-powered counterbalanced manlift to be equipped with a cage and landings or platforms. Upon review the RSO found that to require the ladder to be equipped as such resulted in a far more dangerous situation. The RSO noted that subsection 2.8(1) and (2) of the Regulations are subject to subsection 2.8(5) which provides for the use of the ladder with a fall protection system. The RSO **VARIED** the direction accordingly.