

**Case No.: 2005-52
Interlocutory Decision
OHSTC-09-025(I)**

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

G. Martin-Ivie et al.
appellant

and

Canada Border Services Agency
respondent

June 25, 2009

PROCEDURAL ORDER FOR AN *IN CAMERA* HEARING

For the appellant
Mary Mackinnon, Counsel,

For the respondent
Richard Fader, Counsel, Treasury Board of Canada

WHEREAS Gina Martin-Ivrie has appealed the decision of absence of danger issued by Health and Safety Officer Douglas A. Gould (HSO Gould) on November 11, 2005;

AND WHEREAS the respondent, through its counsel, Mr. Fader, seeks an Order from the Appeals Officer that the hearing be held *in camera* for matters related to national security;

AND WHEREAS Mr. Fader submits that through its business lines, the Canada Border Services Agency (CBSA) is an integral and essential part of ensuring the national security interest that is part of the National Security Policy;

AND WHEREAS Mr. Fader is not requesting that all matters remain private, only matters related to national security;

AND WHEREAS the appellant, through its counsel Ms. MacKinnon is proposing a procedure to permit possible objections to portions of the evidence being kept private;

AND WHEREAS it is stated in paragraph 146.2(*h*) of the *Canada Labour Code*, Part II;

146.2 For the purposes of a proceeding under subsection 146.1(1), an appeals officer may

(*h*) determine the procedure to be followed, but the officer shall give an opportunity to the parties to present evidence and make submissions to the officer, and shall consider the information relating to the matter;

AND WHEREAS the Appeals Officer recognizes that this case may disclose sensitive information related to national security;

the Appeals Officer orders that:

1. The hearing will be held *in camera* for the case under appeal.
2. During the course of the hearing, counsel for the respondent will identify any evidence which they submit raises national security issues. Thereafter, counsel for the appellant shall advise whether they are in agreement with the respondent's position. Failing agreement, the appeals officer will rule on the issue, after having received submissions from the parties, at the time of issuing his final decision.

Issued at Ottawa this 25th day of June, 2009.

Pierre Guénette
Appeals Officer