

Occupational Health
and Safety Tribunal Canada



Tribunal de santé et
sécurité au travail Canada

Ottawa, Canada K1A 0J2

Case No.: 2007-34
Decision No.: OHSTC-08-017

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

Dan Tangney
appellant

and

Canada Border Services Agency
respondent

July 28, 2008

This case was decided by Appeals Officer Pierre Rousseau.

For the appellant

Dan Tangney, Border Services Officer

For the respondent

Richard Fader, Counsel, Treasury Board Portfolio Legal Services Unit

- [1] This matter concerns an appeal made by Mr. Dan Tangney on December 7, 2007, pursuant to subsection 129(7) of the *Canada Labour Code*, Part II (the Code). The appeal was against a decision of absence of danger rendered by Health and Safety Officer Kim Mordaunt (HSO Mordaunt) following her investigation of the refusal to work of Mr. Tangney on November 28, 2007.
- [2] According to the statement of the refusal to work in HSO Mordaunt's Investigation Report and Decision, Mr. Tangney refused to work for the following reason:
- "Due to Excessive [sic] shaking of roof (Management states this is due to construction on roof) I am concerned with structural damage due to excessive weight being repeatedly placed (excess of 250 monos) on floor and effects of construction on roof including cables shaking"
- [3] On completion of the investigation of the refusal to work, HSO Mordaunt determined, pursuant to subsection 129(4) of the Code, that a danger did not exist.
- [4] On May 5, 2008, the Occupational Health and Safety Tribunal Canada's (the Tribunal) Case Management Officer was informed during a telephone conversation with Mr. Tangney, that the latter wished to withdraw his appeal. On June 2, 2008, the Tribunal's Case Management Officer was further informed that Mr. Tangney was going to send a letter, by June 9, 2008, to the Tribunal stating the withdrawal of his appeal.
- [5] On June 17, 2008, the Tribunal sent a letter to Mr. Tangney, with a postage paid return envelope, seeking clarification on the status of his appeal. The letter advised Mr. Tangney that should he not respond by June 27, 2008, the Appeals Officer would accept the verbal confirmation of his withdrawal.
- [6] Considering the above and having reviewed the file, I accept the withdrawal and declare this case closed.



Pierre Rousseau
Appeals Officer

SUMMARY OF APPEALS OFFICER DECISION

Decision OHSTC-08-017

Appellant Dan Tangney

Respondent Canada Border Services Agency

Provisions

Canada Labour Code, Part II 129(7), 129(4)

Keywords Absence of danger, roof, shaking, weight,
withdrawal

SUMMARY

On December 7, 2007, Mr. Tangney appealed the decision of absence of danger rendered by Kim Mordaunt. On June 27, 2008, the Appeals Officer accepted the verbal confirmation Mr. Tangney's withdrawal. The case is therefore close.