

Occupational Health  
and Safety Tribunal Canada



Tribunal de santé et  
sécurité au travail Canada

Ottawa, Canada K1A 0J2

Case No.: 2004-42  
Decision No.: OHSTC-08-019

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

Dan Leibel  
*appellant*

and

Canada Border Services Agency  
*respondent*

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August 21, 2008

This case was decided by Appeals Officer Pierre Guénette.

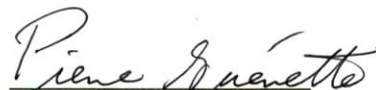
**For the appellant**

Andrew Raven, Counsel, Raven, Cameron, Ballantyne & Yazbeck

**For the respondent**

Richard Fader, Counsel, Treasury Board Portfolio Legal Services Unit

- [1] This matter concerns an appeal made by Mr. Dan Leibel on December 2, 2004, 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 Lyn Peters (HSO Peters) following her investigation of the refusal to work of Mr. Leibel on December 2, 2004.
- [2] According to the refusal to work registration form, Mr. Leibel refused to work for the following reason:
- “Because my life is in jeopardy, because Management has decided that for economic reasons only, my health + safety will continue to be a high risk from this point on. See all evidence 16 pages. That while working alone, my chances of facing imminent death or injury are 100 % higher than they would be if I was working with another inspector, because danger can arise in any split second decision made by a felon, and any felon seeing or knowing there is more than one on shift would be in most cases deterred or even abandon their thought to kill or harm me.” [sic]
- [3] On completion of the investigation of the refusal to work, HSO Peters determined, pursuant to subsection 129(4) of the Code that a danger did not exist.
- [4] On August 15, 2008, Mr. Andrew Raven, Counsel for Mr. Leibel wrote to the Occupational Health and Safety Tribunal Canada to advise that Mr. Leibel no longer wished to pursue his appeal.
- [5] Considering the above and having reviewed the file, this appeal is withdrawn and this case is closed.

  
Pierre Guénette  
Appeals Officer

## SUMMARY OF APPEALS OFFICER DECISION

<u>Decision</u>	OHSTC-08-019
<u>Appellant</u>	Dan Leibel
<u>Respondent</u>	Canada Border Services Agency
<u>Provisions</u>	
<i>Canada Labour Code, Part II</i>	129(7), 129(4)
<u>Keywords</u>	Customs Inspector, danger, working alone, absence of danger, withdrawal.

### SUMMARY

On December 2, 2004, Mr. Leibel appealed the decision of absence of danger rendered by Health and Safety Officer Lyn Peters on December 2, 2004. On August 15, 2008, Mr. Andrew Raven, Counsel for Mr. Leibel, informed the Occupational Health and Safety Tribunal Canada that Mr. Leibel no longer wished to pursue his appeal. The case is therefore close.