

Occupational Health
and Safety Tribunal Canada



Tribunal de santé et
sécurité au travail Canada

Ottawa, Canada K1A 0J2

Case No.: 2005-17
Decision No.: OHSTC-08-026

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

Tony Ferrusi
appellant

and

Canada Border Services Agency
respondent

September 25, 2008

This case was decided by Appeals Officer Pierre Guénette.

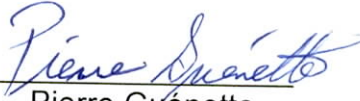
For the appellant

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

For the respondent

Richard Fader, Counsel, Treasury Board, Legal Services

- [1] This case concerns an appeal made by Mr. Tony Ferrusi on June 3, 2005, 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 verbally on May 26, 2005, by Health and Safety Officer (HSO) Darlene Tunney following her investigation of the refusal to work of T. Ferrusi on May 25, 2005, pursuant to section 128 of the *Code*.
- [2] According to the refusal to work registration form, T. Ferrusi refused to work for the following reason:
- change in definition to danger (Parks Canada)
 - lack of training & equipment to handle individuals with guns
 - unable to implement policy as unaware of the dangerous status
 - 2 versions of job hazard analysis..."
- [3] On completion of the investigation of the refusal to work, HSO Tunney determined, pursuant to subsection 129(4) of the *Code*, that a danger did not exist.
- [4] On September 23, 2008, Mr. Andrew Raven, Counsel for the appellant, wrote to the Occupational Health and Safety Tribunal Canada to advise that he had received instruction from T. Ferrusi to request that his appeal be withdrawn.
- [5] Considering the above and having reviewed the file, I accept the withdrawal and declare this case closed.


Pierre Guénette
Appeals Officer

SUMMARY OF APPEALS OFFICER DECISION

<u>Decision</u>	OHSTC-08-026
<u>Appellant</u>	Tony Ferrusi
<u>Respondent</u>	Canada Border Services Agency
<u>Provisions</u>	
<i>Canada Labour Code, Part II</i>	128, 129(4) and 129(7)
<u>Keywords</u>	Refusal to work, definition to danger, training & equipment, policy, job hazard analysis, absence of danger, appeal, withdrawal.

SUMMARY

On June 3, 2005, Tony Ferrusi appealed a decision of absence of danger rendered verbally by Health and Safety Officer Darlene Tunney on May 26, 2005. On September 23, 2008, Andrew Raven, Counsel for T. Ferrusi, informed the Occupational Health and Safety Tribunal Canada that T. Ferrusi no longer wished to pursue his appeal. The case is therefore close.