

Occupational Health
and Safety Tribunal Canada



Tribunal de santé et
sécurité au travail Canada

Ottawa, Canada K1A 0J2

Case No.: 2005-19
Decision No.: OHSTC-08-027

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

Mike Coene
appellant

and

Canada Border Services Agency
respondent

October 8, 2008

This case was decided by Appeals Officer Richard Lafrance.

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. Mike Coene on June 20, 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 on June 16, 2005, by Health and Safety Officer (HSO) Lindsay Harrower following her investigation of the refusal to work of M. Coene on June 16, 2005, pursuant to section 128 of the *Code*.
- [2] According to the refusal to work statement, M. Coene refused to work because he felt that the conditions of work at the border crossing where he was assigned to work were dangerous because there was no armed presence at the work place nor was he scheduled to immediately begin firearms training.
- [3] On completion her investigation, HSO Harrower determined, pursuant to subsection 129(4) of the *Code*, that a danger did not exist.
- [4] On October 1, 2008, the Occupational Health and Safety Tribunal Canada received a letter from Mr. Andrew Raven, Counsel for the appellant to advise that he had received instruction from M. Coene to request that his appeal be withdrawn.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.


Richard Lafrance
Appeals Officer

SUMMARY OF APPEALS OFFICER DECISION

<u>Decision</u>	OHSTC-08-027
<u>Appellant</u>	Mike Coene
<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, absence of danger, appeal, withdrawal.

SUMMARY

On June 20, 2005, Mike Coene appealed a decision of absence of danger rendered verbally by Health and Safety Officer Lindsay Harrower on June 16, 2005. On October 1, 2008, Andrew Raven, Counsel for M. Coene, informed the Occupational Health and Safety Tribunal Canada that M. Coene no longer wished to pursue his appeal. The case is therefore close.