

Case No.: 2005-30

Canada Labour Code
Part II
Occupational Health and Safety

Robert Cronk and UCCO-SACC-CSN
appellants

and

Correctional Services Canada
respondent

Decision No.: CAO-07-004
February 19, 2007

This case was decided by Appeals Officer Michael McDermott.

For the Appellant

Richard Fader, Counsel, Treasury Board Legal Services

For the Respondent

Michel Bouchard, Union advisor, CSN Ontario

Health and Safety Officer

Bob Tomlin, Human Resources and Skills Development Canada

- [1] This case concerns an appeal made on August 8, 2005 under the *Canada Labour Code*, Part II, subsection 129(7), by Robert Cronk, a Correctional Services Officer at the Collins Bay Institution, against a decision issued by Health and Safety Officer (HSO) Bob Tomlin.
- [2] According to HSO Tomlin's report, on August 2, 2005, Mr. Cronk refused to work stating that:

“I was aware of information that made me believe that an inmate I was scheduled to take on a medical escort was at risk of being attacked and that would also place me at risk. I was not given the appropriate equipment to minimize that risk and I believe that it placed me in a potential situation of danger.”

On completion of his investigation on August 3, 2005, HSO Tomlin determined, pursuant to subsection 129(4) of the *Canada Labour Code* that a danger did not exist, “beyond that which is a normal condition of employment”.

- [3] It is noted that an Assurance of Voluntary Compliance (AVC) was given by the employer containing two undertakings as follows:

“Ensure Correctional Officers have an effective means of quickly summoning emergency help at all times while conducting escorts outside the institution”.

“Review the policy of issuing personal protective equipment to officers conducting escorts outside the institution to ensure hazards and/or the risk of injury is minimized as much as possible with specific regard to the wearing of protective vests”.

The AVC had a completion date of September 3, 2005.

- [4] In September 2006, the parties agreed to attempt a mediated settlement to the issues in this case. I was assigned to the file and arrangements were made to hold mediation meetings in Kingston, Ontario, on February 21 and 22, 2007. On February 12, 2007, Michel Bouchard confirmed to the Canada Appeals Office that Mr. Cronk and the Union wished to withdraw the appeal, noting that satisfactory corrective measures had been adopted in workplace practices since the date of the refusal to work.
- [5] Considering the written request to withdraw the appeal and having reviewed the file, I accept and declare this case closed.

Michael McDermott
Appeals Officer

Summary of Appeals Officer's Decision

Decision No.: CAO-07-004

Appellant: Robert Cronk and UCCO-SACC-CSN

Respondent: Correctional Services Canada

Key Words: Escorts outside the institution; personal protective equipment; withdrawal

Provisions: *Canada Labour Code*: 129(4) and (7)

Summary:

On August 8, 2005, Correctional Officer Robert Cronk appealed a decision of no danger issued by HSO Tomlin, arising from a refusal to undertake a medical escort outside the Collins Bay Institution. On February 12, 2007, Mr. Cronk and UCCO-CCAC-CSN withdrew their appeal of the decision. The case is therefore close.