

Case No.: 2005-27

Canada Labour Code
Part II
Occupational Health and Safety

Correctional Services Canada
appellant

and

Paul Drumm and UCCO-SACC-CSN
respondents

Decision No.: CAO-07-007
March 13, 2007

This case was decided by Appeals Officer Michael McDermott.

For the Appellant

Ms. Jennifer Lewis, Counsel, Treasury Board Legal Services
Mr. Jim Wladyka, Director, Correctional Services Canada

For the Respondent

Mr. Michel Bouchard, Union advisor, CSN Ontario
Mr. Paul Drumm, Correctional Officer, Correctional Services Canada

Health and Safety Officer

Mr. Bob Tomlin, Human Resources and Skills Development Canada

- [1] This case concerns an appeal made on July 29, 2005, under the *Canada Labour Code*, Part II, subsection 146(1), by Correctional Services Canada against a direction issued, pursuant to subsection 145(2)(a) by Health and Safety Officer (HSO) Bob Tomlin, on July 5, 2005.
- [2] On July 5, 2005, Paul Drumm, a Correctional Officer at the Warkworth Institution, Campbellford, Ontario, invoked his right to refuse work pursuant to Section 128 of the *Code*. The circumstances giving rise to the refusal involved the presence of contraband being distributed among the inmate population with a number of inmates showing symptoms of intoxication. At least two inmates engaged in violent behaviour and there was an apprehension of further incidents.

- [3] HSO Tomlin investigated the refusal the same day and decided, pursuant to subsection 129(4), that a danger existed. Having considered that a condition in a place constituted a danger to an employee while at work, in accord with subsection 145(2), he directed the employer “to immediately take steps to protect the employee”. This direction was the subject of the appeal.
- [4] Hearing dates were set for March 27-29, 2007, in Kingston, Ontario, and a pre-hearing, logistical telephone conference call was held on February 27, 2007. On March 8, 2007, Counsel for the employer advised the Appeals Office that the appeal was being withdrawn.
- [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-07-007

Appellant: Correctional Services Canada

Respondent: Paul Drumm and UCCO-SACC-CSN

Key Words: Presence of contraband in the Institution, intoxication, actual and apprehended violence, withdrawal

Provisions: *Canada Labour Code*: 146(1) and 145(2)(a)

Summary:

On July 29, 2005, Correctional Services Canada appealed a direction issued by HSO Tomlin, following a finding of danger, pursuant to subsection 129(4), at the Warkworth Institution. On February 27, 2007, Correctional Services Canada withdrew its appeal of the decision. The case is therefore closed.