

**Canada Labour Code**  
**Part II**  
**Occupational Health and Safety**

Matthew Smith  
*appellant*

and

Michele Vermette  
Correctional Service Canada  
*respondent*

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May 2, 2007

This matter is decided by Appeals Officer Jean-Pierre Aubre

**For the appellant**

Matthew Smith, Correctional Officer, Kingston Penitentiary

**For the respondent**

Michele Vermette, A/Assistant Warden, Management Services, Kingston Penitentiary

- [1] This matter concerns an appeal made by Mr. Matthew Smith on February 22, 2007, pursuant to subsection 129(7) of the *Canada Labour Code*, Part II. Mr. Smith is employed as a Correctional Officer by Correctional Service Canada at Kingston Penitentiary Institution. His appeal is against a decision of absence of danger rendered by Health and Safety Officer Bob Tomlin (HSO) on February 2, 2007, following Mr. Smith's refusal to work on January 30, 2007.
- [2] In refusing to work, Mr. Smith was alleging that a danger was being created by the Employer's decision to remove patrol dogs from Kingston Penitentiary Institution (PKI) security perimeter duties and replacing them with lesser means of officer protection. Mr. Smith was claiming that these means would provide protection levels not consistent with levels required by the situation management model and CD 567 as being adequate to deal with the levels of threat that Mr. Smith and other staff would be confronted with during the operational hours required to detect and prevent escape, and perform protection of the perimeter of a maximum security institution

- [3] In finding that “a danger as defined under the Code (did) not exist”, Health and Safety Officer Tomlin stated in his investigation report that “during higher risk periods such as major movement and inmate yard activity KPI patrols will be conducted with 2 officers equipped with PPA and radio communication. Also inmate counts will be verified from point to point. KPI officers are required to communicate their patrol movements with tower guards to facilitate better monitoring. KPI officers do not investigate perimeter alarms until 2 officers are present at any time. Officers are authorized to withdraw if necessary and especially if they are confronted with the hazard on solo patrol. Although I believe these arrangements still do not equal the level of protection the patrol dog provided the KPI officer, they are significant ...”.
- [4] On March 29, 2007, by Email addressed to Mr. Michel Parent, Acting Case Management Officer, Occupational Health and Safety Tribunal Canada, Mr. Smith notified the Appeals Officer of his intention to withdraw the appeal the latter had initiated against the decision of HSO Tomlin, stating that he was “satisfied that the tools and practices agreed upon between union local, IJOSH and KP management to mitigate the loss of the security dogs (were) within acceptable safety levels.”
- [5] Considering the above and having reviewed the case file, I duly note the stated intention of the appellant. This appeal is thus withdrawn and this case closed.

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Jean-Pierre Aubre  
Appeals Officer

## Summary of Appeals Officer's Decision

**Decision:** CAO-07-014

**Appellant:** Matthew Smith

**Respondent:** Michele Vermette

**Provisions:** *Canada Labour Code*, 129(7)

**Keywords:** Withdrawal, Patrol dogs, Patrol,

### Summary:

On February 22, 2007, Matthew Smith appealed a decision of no danger following a work refusal on January 30, 2007. On March 29, 2007, Mr. Smith withdrew the appeal. The case is therefore close.