

Canada Labour Code
Part II
Occupational Health and Safety

Kathleen Bell
appellant

and

Correctional Service of Canada
respondent

June 15, 2007

This case was decided by Katia Néron, Appeals Officer.

For the appellant

Andrew Raven, Counsel, Raven, Cameron, Ballantyne & Yazbeck LLP/s.r.I.

For the respondent

Richard E. Fader, Counsel, Treasury Board, Legal Services

- [1] This case concerns an appeal made, under subsection 129(7) of the *Canada Labour Code*, Part II (the *Code*), on July 13, 2005, by Kathleen Bell, community parole officer for Correctional Service of Canada (CSC) Parole Office in Saskatoon, Saskatchewan.
- [2] The appeal was made as a result of the decision of non danger rendered on July 8, 2005, by the health and safety officer (HSO) Dave Shepherd following his investigation conducted with regards to the refusal to work made by K. Bell on June 30, 2005.
- [3] According to HSO Shepherd's investigation report, K. Bell's job duties required the assessment of offenders on an ongoing basis to see how they were functioning in society and to ensure that they were meeting the conditions of parole. A parole officer's assessment determines whether or not an offender stays in the community or has their parole suspended and they return to prison to continue their sentence. If an offender receives an unfavourable assessment there is a chance that threats may be made in retaliation.
- [4] In this instance, K. Bell had been supervising a number of offenders over time that were known to each other and were involved in gang activities namely the Hell's Angel and/or their associates. Between May 2004 and February 2005, based on K. Bell's interaction

with two of the offenders in particular, there had been a number of situations that took place that K. Bell considered threatening in nature. K. Bell felt that one of the offenders was of the opinion that she had gained knowledge of a murder in the city that could send him to prison. K. Bell's statement of her refusal to work was as follows:

Given the ongoing situation I have experienced since 04/05/06 & new information received re: the murder charge being laid against Mr. [...], I feel that returning to the parole office at this time constitutes a dangerous situation for myself/family.

- [5] HSO Shepherd's investigation revealed that a threat risk assessment (TRA) was conducted after each of the incidents reported by K. Bell.
- [6] HSO Shepherd decided that there was no danger for K. Bell to perform her duties based on the following reasons:
- there was never any violence associated with the threats and they were never direct in nature;
 - over the last five months (February 15th to present day) there had been no further incidents that could be considered threatening in nature. This was due in part to a temporary secondment to Regional Headquarters (RHQ) in Saskatoon from January 15, 2005, till June 24, 2005 as well as a change in K. Bell's routine;
 - all parties agreed that the threats should be taken seriously and some type of action should be taken to deal with each issue. The parties also agreed that there was no way of knowing whether the threats will resurface in the future. Also, with one of the main offenders out on his recognisance, the belief is that things weren't expected to escalate;
 - on December 22, 2004, Eric Delage of CSC Department Security Division (DSD) initiated a TRA at a National level, as opposed to the local TRAs that were made before, with regards to the incidents reported by K. Bell. The results of this national TRA came back as "Low", partially due to the fact that there had been no incidents since February, 2005. However, a number of recommendations were made including reporting any new incidents to all parties involved, ensuring that K. Bell was provided with 24/7 emergency contact person, maintaining current protective measures, continuing to closely monitor the situation and establishing a return to work program.
- [7] On June 11, 2007, Counsel Andrew Raven on behalf K. Bell advised the Occupational Health and Safety Tribunal Canada by writing that she wished to withdraw her appeal in view of changed work circumstances since her work refusal in 2005.
- [8] Based on this letter and HSO Shepherd's investigation report, I hereby accept K. Bell's withdrawal and confirm that this file is closed.

Katia Néron
Appeals Officer

Summary of Appeals Officer's Decision

Decision: CAO-07-021

Appellant: Kathleen Bell

Respondent: Correctional Service of Canada

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

Keywords: Parole officer, threats, TRA, withdrawal

Summary:

This matter concerns an appeal made by Kathleen Bell against a decision of no danger issued by health and safety officer Dave Shepherd. On June 11, 2007, the Canada Appeals Office received a letter advising that Ms. Bell wished to withdraw her appeal. After reviewing the case, the Appeals Officer accepted Ms. Bell's withdrawal and closed the file.