

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

Jean-François Boudreault  
and  
*Fédération des employées et employés de  
services publics inc. (CSN)*  
*Applicants*

and

*Securicor Canada Limited*  
*Respondent*

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Decision No.: 06-007  
March 10, 2006

This case was decided by appeals officer Katia Néron, based on documents provided by both parties and the health and safety officer.

**For the Appellants**

Pascal Jean, union advisor, *Fédération des employées et employés de services publics inc. (CSN)*

Jean-François Boudreault, security transport officer

Denis Berneche, security transport officer

Éric Laroche, security transport officer and workplace health and security committee employee

**For the Respondent**

Dany St-Martin, regional director, Securicor Canada Limited

François Samson, sectional director, Securicor Canada Limited, and employee co-chair of the workplace health and safety committee

**Health and Safety Officer**

Mario Thibault, Human Resources and Skills Development Canada, Montreal, Quebec

[1] This case concerns an appeal filed on November 22, 2004 pursuant to section 129(7) of the *Canada Labour Code*, Part II (the *Code*), by Jean-Francois Boudreault, security transport officer at Securicor Canada Limited (Securicor).

[2] J. F. Boudreault filed this appeal against a decision of no danger made by health and safety officer Mario Thibault, following his investigation of the employee's refusal to work, dated November 22, 2004.

[3] According to the investigation report by health and safety officer Thibault, at around 1:25 p.m. on November 22, 2004, J.F. Boudreault was assigned to go with another security transport officer Denis Berneche to deliver bus and metro passes to an IGA grocery store on Hochelaga Street in Montreal.

[4] Also according to health and safety officer Thibault's report, J.F. Boudreault and D. Berneche both refused to carry out this task because they believed that their safety was in danger for the following reasons:

- the training received by J.F. Boudreault and D. Berneche dealt with work done in teams of three: the truck driver, the transport officer and the guard;
- J. F. Boudreault had to act as a transport officer, that is, exit alone from the truck, without being accompanied by a guard, while holding bags of valuable objects equivalent to bags of money;
- the officers' truck was not equipped with an alarm that would allow it to be left without surveillance. In addition, the driver's door could be opened from the outside without a key because the lock was broken;
- it could take more than five minutes for someone to attend to the officer once he was inside the grocery store; and
- the route taken to get to the place of delivery did not change from one time to another and if thieves were to plan a hold-up they would choose to do it when the delivery is done by a single armed officer instead of two.

[5] The text of J.F. Boudreault's and D. Berneche's refusal to work is found in the same document, and reads:

We refused to carry out the work asked of us by our employer (in this case, the "STM" route) because we believed that we would be in danger for the following reasons:

- Our employer asked us to exit the bullet-proof vehicle alone (1 man) without a guard with full (SECURPAK) bags.
- The bags are identical to those that contain money. Dishonest people would not be able to tell the difference in the contents.
- Similar decisions had previously been made in favour of Securicor escorts concerning officers who had to make deliveries or "pick up" in these **same stores**, and it was ruled that the transport officer **had to be** escorted!

- The same thing for one-man service teams for which it was **obligatory** to have assistance (back-up) to open a vault or even take a “closing seal” (sic) in a public place.
- In addition, if individuals were to assault us, it seemed obvious that their choice would be for a route where, instead of two officers, there was only one armed officer.

For these reasons, we consider our life has been unnecessarily put in danger, and this is why we refuse to work under these conditions.

[6] According to health and safety officer Thibault, the employer maintained that there was no danger to the employees’ safety for the following reasons:

- the work asked of them was periodic – it covered a period of two weeks per month and the routes could vary;
- there had never been a theft of bus and metro passes;
- most of the robberies that had occurred took place in a bank;
- no information had been received by the police concerning the possibility of a robbery during the employees’ route or at the grocery store;
- bus and metro passes have always been delivered by teams of two officers instead of three;
- employees had been advised that in case of a robbery, they should let the robbers take the money and not put up any resistance.

[7] Following his investigation, health and safety officer Thibault decided that there was no danger for J.F. Boudreault and D. Berneche for the following reasons:

- the routes for going to the grocery store could vary;
- no information had been transmitted by the police on the possibility of a robbery being committed during the employees’ route;
- bus and metro passes had always been delivered by teams of two officers instead of three;
- the employees had been advised that in case of robbery, they should let the robbers take the money and not put up any resistance;
- the delivery point was an IGA grocery store, not a bank;

- during his investigation, the IGA parking lot was calm and only customers entered the grocery store;
- during his investigation, the presence of a vehicle identified by the Securicor logo and the presence of health and safety committee members added an element of dissuasion.

[8] Health and safety officer Thibault confirmed his decision of no danger in writing on November 22, 2004.

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[9] The issue to be addressed in this case is to determine whether health and safety officer Thibault made a mistake when he decided that there was no danger for J.F. Boudreault at the time of his investigation. To do this, I must bear in mind the definition of danger as contained in the *Code*, as well as the facts and circumstances surrounding this case.

[10] Section 122(1) of the *Code* defines “danger” as follows:

122(1) “danger” means any existing or potential hazard or condition or any current or future activity that could reasonably be expected to cause injury or illness to a person exposed to it before the hazard or condition can be corrected, or the activity altered, whether or not the injury or illness occurs immediately after the exposure to the hazard, condition or activity, and includes any exposure to a hazardous substance that is likely to result in a chronic illness, in disease or in damage to the reproductive system.

[11] To determine whether there is a danger, I need to identify the situation, the task or the risk susceptible to causing injuries to the person. I must also determine whether this situation, task or risk existed at the moment of the health and safety officer’s investigation and if could reasonably be expected to happen in the future. Finally, I must determine whether, given the circumstances, the risk could be avoided, the situation corrected or the task modified before causing injuries or illness. If this could not be done, the situation, task or risk could be considered dangerous.

[12] In the present case, the potential risk adduced by J.F. Boudreault and D. Berneche was that they could be the target of a hold-up while performing their task. J.F. Boudreault and D. Berneche also maintained that the absence of a guard to accompany the transport officer during his delivery to assure onsite surveillance increased the risk that the transport officer would sustain injuries if there were a hold-up.

[13] At the time of health and safety officer Thibault’s investigation, a hold-up or attack was not imminent. However, since there had never been a robbery of bus and metro passes and since the place of delivery was an IGA grocery store, as opposed to a bank, and as the bus and metro passes were considered valuables in and of themselves, I am of the opinion that health and safety officer Thibault’s decision did not take into consideration the possibility that a robbery could occur in the future and that it is reasonable to believe that this

possibility could become a reality, considering the nature of the work that had to be done by J.F. Boudreault and D. Berneche.

- [14] On the other hand, the employer argued that the routes taken to the point of service varied, which decreased the risk that potential attackers would be aware of these routes.
- [15] However, once the officers arrived in the grocery store parking lot, the situation was completely different and, in my opinion, the presence of a guard to ensure area surveillance was required. Since the truck was not equipped with an alarm system and the lock on the driver's door was broken, one of the two officers would need to stay with the truck to make sure there was surveillance. In doing so, I am not convinced that the officer remaining with the truck could also observe the area while the transport officer took the bags from the back door of the truck. This officer could also not provide surveillance once the transport officer was inside the grocery store. In addition, once the transport officer was inside the grocery store to transport the bags and thus without any method of surveillance, the transport officer on his own was not able to provide adequate surveillance or react quickly to avoid an attack or to ask for help, as he had been taught.
- [16] J. F. Boudreault and D. Berneche both argued the fact that their training was only for situations involving a transport officer accompanied by a guard who could provide surveillance of the area, not a transport officer doing the work alone, without a guard.
- [17] On the other hand, J.F. Boudreault was armed with a revolver. However, as a transport officer, he could not, in my opinion, use it quickly enough at the most crucial moment of his work.
- [18] Consequently, I do not agree with health and safety officer Thibault's conclusion and I believe that, at the time of his investigation, there were conditions surrounding J.F. Boudreault duties as a transport officer, which went beyond the normal conditions of his work and put his safety in danger before they could be remedied.
- [19] This is why, by virtue of the powers conferred on me by paragraph 146.1(1)*b*) of the *Code*, I hereby issue the attached direction concerning a danger, directing Securicor to protect the safety of all employees delivering bus and metro passes, by taking steps to ensure that there is continuous surveillance at the delivery site.
- [20] I hereby ask health and safety officer Thibault or any other health and safety officer to make sure that Securicor complies with this direction.

[21] Finally, I hereby remind Securicor that, as stipulated in subsection 145(5) of the *Code*, the employer is obliged to post copies of this direction in the work place, in full view of the employees, as well as give copies to both the policy committee and the local health and safety committee.

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Katia Néron  
Appeals Officer

**APPENDIX**

**IN THE MATTER OF THE CANADA LABOUR CODE, PART II,  
OCCUPATIONAL HEALTH AND SAFETY**

**DIRECTIONS TO THE EMPLOYER PURSUANT  
TO SUBSECTIONS 145(2)(a) and (b)**

On November 22, 2004, health and safety officer Mario Thibault carried out an investigation on a refusal to work by Jean-Francois Boudreault and Denis Berneche, security transport officers who had to make a delivery to an IGA grocery store on Hochelaga Street in Montreal, on behalf of Securicor Canada Ltd, an employer subject to the provisions of the *Canada Labour Code*, Part II, and doing business at 1325 William Street, Montreal, Quebec, the said location being known under the name of Securicor Canada Limitée.

After examining the documents presented in the file and the facts and circumstances relating to the employees' refusal to work, the undersigned appeals officer is of the opinion that the following situation constitutes a danger to the employee J.F. Boudreault, as follows:

No action was taken to assure uninterrupted surveillance of the area while the transport officer took out the bags of goods (bus and metro passes) by the rear door of the truck and delivered the bags alone in the grocery store and that he therefore had no way of providing adequate surveillance or reacting quickly in the event of a hold-up or an attack.

Therefore, you are HEREBY DIRECTED, pursuant to subsection 145(2)(a) of the *Canada Labour Code* Part II, to take immediate appropriate action to correct this dangerous situation.

Further, you are HEREBY DIRECTED, pursuant to subsection 145(2)(b) of the *Canada Labour Code* Part II, not to perform the task in question until you are in compliance with this direction.

Ottawa, March 10, 2006.

Katia Néron  
Appeals Officer  
Certificate #. QC 7879

To: Securicor Canada Limited  
1325 William St.  
Montreal, Quebec  
H3C 1R4

## Summary of Appeals Officer's Decision

**Decision No.:** 06-007

**Applicants:** Jean-François Boudreault  
and  
*Fédération des employées et employés de services publics inc. (CSN)*

**Respondents:** Securicor Canada Limited

**Key Words:** Decision, refusal to work, absence of a lookout person

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

### Summary:

An employee had to deliver bus and metro passes alone in a grocery store while his colleague had to stay in the truck to act as a lookout. Knowing that there would not be a guard to provide adequate surveillance of the delivery area for the employee making the delivery and considering that this situation would put this employee's safety in danger, the two employees refused to work.

The health and safety officer rendered a decision of no danger following his investigation.

The appeals officer rescinded the health and safety officer's decision of no danger and issued directions for danger pursuant to paragraphs 145(2)(a) and (b) of the *Canada Labour Code*, Part II.