

Canada Labour Code
Part II
Occupational Health and Safety

Herbert J. Bottomley
applicant

and

Bearskin Lake Air Service Ltd.
employer

Decision No.: 03-021
November 19, 2003

This case was decided by Michèle Beauchamp, appeals officer.

[1] This case concerns an appeal made on April 8, 2003 by Michael K. Balogh, Contract Administrator, on behalf of Herbert J. Bottomley, an employee of Bearskin Lake Air Service Ltd., under subsection 129(7) of the *Canada Labour Code* (the *Code*), Part II.

[2] The appeal was made as a result of the decision of absence of danger rendered under subsection 129(4) of the *Code* by health and safety officer Fancy Smith, verbally on March 28, 2003 and in writing on March 29, 2003, as a result of the investigation she conducted into Mr. Bottomley's refusal to work on March 27, 2003.

[3] Mr. Bottomley had refused to work for the following reasons, stated in health and safety officer Smith's investigation report:

This statement of refusal to work stems from the fact that I feel it is unsafe to fly with Eric [Captain Eric Salmonson] due to intimidation, past practices and sheer threats poses a real and imminent danger to myself and passengers on the aircraft if we are forced to fly together.

Eric's emotional outbursts of rage including pounding of fist, shouting and physical threats produces a level of stress that is unbearable every time I am scheduled with him resulting in an obvious safety hazard. Furthermore just being in the same room together produces a level of discomfort for both of us, which results in one of us leaving the room.

[4] On November 12, 2003, the Canada Appeals Office on Occupational Health and Safety was advised by Mr. Balogh that Mr. Bottomley was withdrawing his appeal.

[5] As the responsible appeals officer and after reviewing the file, I confirm that the appeal was withdrawn. Therefore, the case is closed without further inquiry.

Michèle Beauchamp
Appeals Officer

Summary of Decision

Decision No.: 03-021

Applicant: Herb Bottomley

Employer: Bearskin Lake Air Service Ltd.

Key Words: Danger

Provisions:

Code: ss. 122(1)

Regulations:

Summary:

The applicant appealed a decision of absence of danger made by a health and safety officer, following an investigation of his refusal to work.

The applicant subsequently withdrew his appeal. The case is closed without further inquiry.