

Canada Labour Code
Part II
Occupational Health and Safety

C. Mariani and J. Boston
applicants

and

Securicor Canada Limited
respondent

Decision No. 05-016
March 30, 2005

These appeals made pursuant to subsection 129(7) of the *Canada Labour Code* were decided by Douglas Malanka, appeals officer.

- [1] This inquiry concerned two appeals made on March 14, 2003, by C. Mariani and J. Boston, armed guards employed by Securicor Canada Ltd. (Securicor), pursuant to section 129(7) of the *Canada Labour Code (Code)*.
- [2] The two armed guards refused to work twice during their shift. Their first refusals to work occurred on March 4, 2003 at approximately 10:30 hours when they refused to carry out their stop at the Bank of Nova Scotia located in Ottawa, Ontario. Following the employer's unsuccessful effort to resolve the matter, health and safety officer (HSO) Serge Marion arrived to investigate into their continued refusals to work. They complained to HSO Marion that a danger existed for them because Securicor had reduced their crew size for the shift from three persons to two, such that there was no driver to remain with their vehicle while they conducted the stop. They feared that they would be vulnerable to attack without a driver to maintain surveillance of their vehicle and the site. Following his investigation, HSO Marion decided that a danger did not exist for either employee.
- [3] Their second refusals to work occurred on March 5, 2003 at approximately 06:00 hours when they refused to carry out their stop at the Royal Bank located Ottawa, Ontario. Following the employer's unsuccessful effort to resolve the matter, health and safety officer (HSO) Gilles Hubert arrived to investigate into their continued refusals to work. C. Mariani and J. Boston complained to HSO Hubert that a danger existed for them because Securicor had reduced their crew size for the shift such that there was no driver to

remain with their vehicle while they conducted the stop. They feared that they would be vulnerable to attack without a driver to maintain surveillance of their vehicle and the site. Following his investigation, HSO Hubert decided that a danger did not exist for either employee.

- [4] On March 14, 2003 C. Mariani and J. Boston appealed the decisions of health and safety officers Serge Marion and Gilles Hubert pursuant to subsection 129(7) of the *Code* to an appeals officer.
- [5] On February 4, 2005, Mr. E. Torre, National Representative, CAW-TCA Canada wrote on behalf of C. Mariani and J. Boston to withdraw their appeals of decisions of HSO Marion and HSO Hubert. A copy of the withdrawal was forwarded to Securicor.
- [6] Mr. Torre explained that the appeals were withdrawn because the circumstances in the refusals to work were similar to those in the C. Brazeau, B. Martin, B. Thoms, B. Woods, A. Ozga and P. Gour and Securicor Canada Ltd. Decision, No. 04-049, that I rendered on December 16, 2004. In that decision, I found that a danger existed for the employees and directed Securicor to immediately alter the activity that constitutes the danger or protect any person from the danger.
- [7] The untested facts in this case confirm Mr. Torre's assertion that the circumstances in the appeal were essentially similar to those in the above noted decision. In the absence of any objection from Securicor Canada or any other reason to do otherwise, I have accepted the withdrawals and closed the file on this appeal.

Douglas Malanka
Appeals Officer

Summary of Appeals Officer's Decision

Decision No.: 05-016

Appellants: C. Mariani and J. Boston

Respondent: Securicor Canada Limited

Key Words: Refusal to work, crew reduction, driver, 2-person-off crew, S-Series vehicle, unsecured vehicle, ambush, armed robbery, danger,

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

Summary:

The applicants withdrew their appeals made pursuant to 129(7) of the *Code* and the appeals officer closed the file.