

Priority Post

June 12, 2006

File: VIA Rail (O'Grady)
Document No.: 2006-28

Mr. Michael O'Grady
427 – 28th Avenue
Deux Montagnes, Quebec
J7R 5T4

**Subject: Decision letter 06-017, following a request
to appeal under section 146.1**

Dear Mr. O'Grady:

This decision letter is in response to your appeal filed on April 4, 2006 under section 146.1 of the *Canada Labour Code*.

According to the information that you provided regarding the seating of Via Rail employees, no investigation was conducted by a Health and Safety Officer. Therefore, taking into consideration that no direction was issued under section 145 of the *Code* and no decision was rendered under subsection 129(7) of the *Code*, I determine that I do not have jurisdiction under the *Code* to hear an appeal in this matter.

In this regard, I refer you to the Federal Court decision, dated June 1st, 2006 between *Pamela Sachs, Canadian Union of Public Employees, Airline Division, Air Canada Component, Occupational Health and Safety Committee of Local 4004 (Toronto) and Air Canada, Douglas Malanka, Jacques Servant* a copy of which I have included for your perusal. In this decision the Court ruled that the Appeals Officer has no jurisdiction to hear complaints made under subsection 127.1 of the *Code* (Internal Complaint Resolution Process).

Yours truly,

Richard Lafrance
Appeals Officer

c.c. P. Pilon