

Priority Post

June 28, 2006

File: McNamara vs Customs & Revenue
Document No.: 2002-35

Mr. Kevin McNamara
333 John Street
Sudbury, Ontario
P3E 1R2

**Subject: Decision letter 06-019, following a request to appeal
under section 146.1**

Dear Mr. McNamara:

This decision letter is in response to your appeal filed on October 25, 2002 under section 146.1 of the *Canada Labour Code*.

According to the information that you provided regarding Fire Commission visits, an investigation was conducted by a Health and Safety Officer. As a result, no direction was issued under section 145 of the *Code* and no decision was rendered under subsection 129(7) of the *Code*. Therefore, 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,

Katia Néron
Appeals Officer

c.c. A. Villeneuve
F. Smith