

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

Don Anderson & Teamsters  
Canada Rail Conference  
*appellant*

and

Canadian National Railway  
*respondent*

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Decision No.: 06-030  
September 11<sup>th</sup>, 2006

This case was decided by Katia Néron, Appeals Officer.

**For the applicant**

Don Anderson, conductor, co-chair of the Jasper work place health and safety committee and legal advisor for the union of Teamsters Canada Rail Conference

**For the respondent**

L. Michel Huart, General Counsel for Canadian National Railway

**Health and Safety Officer**

Derek W. Simenac, Transport Canada – Surface, Calgary, Alberta

- [1] This case concerns an appeal made on March 7, 2005 by Don Anderson, legal advisor for the Teamsters Canada Rail Conference (the Union) on behalf of Bob Roach, employee of Canadian National Railway (CNR), under subsection 129(7) of the *Canada Labour Code*, Part II (the *Code*).
- [2] The appeal was made as a result of the two recommendations formulated verbally on February 25, 2005 to CNR by health and safety officer (HSO) Derek W. Simenac following his decision of non danger rendered subsequent to his investigation conducted with regards to the refusals to work made on February 25, 2005 by Derek Parker and Bob Roach, two CNR's employees.
- [3] According to HSO Simenac's investigation report, the work refusal statement for both employees was as follows:

Employees Mr. Derek Parker and Mr. Bob Roach believe operating trains over the Grande Cache subdivision is unsafe due to the fact that CN had just recently started operating on that subdivision which was owned by Alberta Rail Net. They did not believe that the track and structures condition was able to accommodate the tonnage of the trains and could possible collapse, causing them to become injured.

- [4] Following his decision of no danger in regards to both refusals to work, HSO Simenac made the two following recommendations verbally to CNR:
- the work place health and safety committee should carry out a physical inspection of the Alberta Rail Net (ARN) Grand Cache's subdivision as soon as possible;
  - CNR should have their engineer inspect the bridge situated in the above mentioned subdivision as they were uneasy with the fact that the ARN could assure the repairs but not supply supporting documents at the time.
- [5] On March 7, 2005, because the work place health and safety committee had not made the recommended inspection nor B. Roach or the work place health and safety committee had received a confirmation that the inspection of the bridge in question had been made by a CNR bridge inspector, B. Roach and the work place health and safety committee requested, by way of this appeal, that the verbal recommendations of HSO Simenac be complied with immediately.
- [6] On August 28, 2006, D. Anderson advised the Canada Appeals Office on Occupational Health and Safety by writing that since CNR had complied with their concerns, he no longer had any basis to continue his appeal.
- [7] I hereby accept D. Anderson's withdrawal and confirm that this file is closed.

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Katia Néron  
Appeals Officer

## Summary of Appeals Officer's Decision

**Decision No.:** 06-030

**Appellant:** Don Anderson & Teamsters Canada Rail Conference

**Respondent:** Canadian National Railway

**Keywords:** Withdrawal, recommendations, inspection, compliance

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

### **Summary:**

The appeal was made as a result of the two recommendations formulated verbally by health and safety officer Derek W. Simenac following his decision of non danger. Employees Mr. Derek Parker and Mr. Bob Roach believe operating trains over the Grande Cache subdivision is unsafe, they did not believe that the track and structures condition was able to accommodate the tonnage of the trains. On August 28, 2006, D. Anderson advised the Canada Appeals Office on Occupational Health and Safety that CNR had complied with their concerns; he no longer had any basis to continue his appeal.