

Canada Labour Code
Part II
Occupational Health and Safety

Correctional Service of Canada
appellant

and

Lonnie Brant
respondent

Decision No.: 06-035
October 13, 2006

This case was decided by Appeals Officer Pierre Guénette.

For the Appellant

Richard Fader, Counsel

For the Respondent

Lonnie Brant, Correctional Officer I (CXI)

Health and Safety Officer

Bob Tomlin, Labour Program, Human Resources and Skills Development Canada,
Toronto District – North York, Ontario

- [1] This case concerns an appeal made on August 17, 2006 under the *Canada Labour Code*, Part II, subsection 146(1), by Richard Fader, Counsel for Correctional Service of Canada, against a direction issued by Health and Safety Officer (HSO) Bob Tomlin following his investigation of the work refusal of Mr. Lonnie Brant.
- [2] According to HSO Tomlin's investigation report, on August 2, 2006, Mr. Brant refused to work because he was scheduled to be the armed officer on an escort and he had not been properly trained or given the protocol on how to conduct himself as the armed/unarmed officer. Furthermore, Mr. Brant stated that "his leaving might have placed other staff at a risk of danger due to staff shortage and the reduced ability to respond to emergencies in the situation."

- [3] Further to his investigation, HSO Tomlin issued a direction with two items to Correctional Service of Canada under paragraphs 145.(1)(a) and (b) of the *Canada Labour Code* as follow:

“The said health and safety officer is of the opinion that the following provisions of the *Canada Labour Code*, Part II, have recently been contravened:

No. / No: 1

124 – *Canada Labour Code* Part II,

Every employer shall ensure that the safety and health at work of every person employed by the employer is protected.

Correctional Officers have not been trained and/or retained to industry standards, especially those concerned with armed escorts in public environments, where they may be expected to perform their duties based on the “use of force model” currently in use under the Correctional Service Canada National Training Standards.

No. / No: 2

124 – *Canada Labour Code* Part II,

Every employer shall ensure that the safety and health at work of every person employed by the employer is protected.

Equipment appropriate to the requirements of the Correctional Service Canada National Training Standard for the work being performed may not meet industry standards and/or may not be available.

Therefore, you are HEREBY DIRECTED, pursuant to subsection 145(1)(a) of the *Canada Labour Code*, Part II, to terminate the contraventions no later than 17th August 2006.

Further, you are HEREBY DIRECTED, pursuant to paragraph 145(1)(b) of the *Canada Labour Code*, Part II, within the time specified by the health and safety officer, to take steps to ensure that the contravention does not continue or reoccur.

- [4] On October 4, 2006, Mr. Richard Fader, Counsel for Correctional Service of Canada, sent a letter to this Office indicating that Correctional Service of Canada was withdrawing its appeal of the direction.

- [5] Considering the written request to withdraw the appeal and having reviewed the file, I accept this request and declare this case closed.

Pierre Guénette
Appeals Officer

Summary of Appeals Officer's Decision

Decision No.: 06-035

Appellant: Correctional Service of Canada

Respondent: Lonnie Brant

Key Words: Withdrawal, armed escort, staff shortage

Provisions: *Canada Labour Code*: 146(1)

Summary:

On August 17, 2006, Correctional Service of Canada appealed a direction issued following the work refusal of Mr. Brant. On October 4, 2006, Correctional Service of Canada withdrew its appeal of the instruction.