

Case No.: 2006-23

Canada Labour Code
Part II
Occupational Health and Safety

Canada Border Services Agency
appellant

and

CEUDA
respondent

Decision No.: CAO-06-044
December 8th, 2006

This case was decided by Appeals Officer Richard Lafrance.

For the Appellant

Richard Fader, Counsel, Treasury Board Legal Services
Gerald MacKinnon, Chief Commercial Operations

For the Respondent

Carole Legere, Customs Inspector
Jason McMichael, Customs Inspector

Health and Safety Officer

Paul G. Danton, Human Resources and Skills Development Canada

- [1] This case concerns an appeal made on March 16th, 2006 under the *Canada Labour Code*, Part II, subsection 146(1), by Richard Fader, Counsel for Canada Border Services Agency, against a direction issued by Health and Safety Officer (HSO) Paul G. Danton.
- [2] The direction followed upon a refusal to work by 24 employees on February 20th, 2006. There were two employee types involved in the work refusal: the Customs Inspectors and the Immigration Officers. The customs inspectors are required to perform duties either on the Primary Inspection line or Secondary line searching motor vehicles under authority of the Customs Act on a 1 hour rotational basis. Immigration officers are required to interview and search individuals, as well as vehicles, face to face to ascertain compliance or non compliance with regard to the *Immigration Act*.

- [3] Further to his investigation, HSO Danton issued a direction to the employer under paragraphs 141.(1)(h) of the *Canada Labour Code* as follows:

On Monday the 20th of February 2006 the undersigned health and safety officer conducted an investigation into a group refusal to work in the workplace operated by Canada Border Services Agency being the employer subject to the *Canada Labour Code* Part II, at 3 Bridge Street, Port Edward, Ontario, the said work place being sometimes known as the Blue Water Bridge.

Therefore, you are HEREBY DIRECTED, pursuant to paragraph 141(1)(h) to produce a copy of your local emergency plan at this site known as the Blue Water Bridge, at 3 Bridge Street, Port Edward, Ontario that has been developed in consultation with the health and safety committee, and to permit the officer to examine and make copies or take extracts from those documents, and that information.

- [4] On December 5th, 2006, Richard Fader, Counsel for Canada Border Services Agency, sent a letter to this Office indicating that Canada Border Services Agency was withdrawing its appeal of the direction.
- [5] Considering the written request to withdraw the appeal and having reviewed the file, I accept and declare this case closed.

Richard Lafrance
Appeals Officer

Summary of Appeals Officer's Decision

Decision No.: CAO-06-044

Appellant: Canada Border Services Agency

Respondent: CEUDA

Key Words: Customs inspectors, immigration officers, emergency procedures, withdrawal

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

Summary:

On March 16th, 2006, Canada Border Services Agency appealed a direction following the work refusal of 24 employees. The HSO issued a direction to produce a copy of the local emergency plan and permit the officer to examine and make copies or take extracts from those documents and that information. On December 5th, 2006, Canada Border Services Agency withdrew its appeal of the direction. The case is therefore close.