



HAND DELIVERED

January 22nd, 2014

Site No.: L2113

Assignment No.: M31C00964

BRINK'S CANADA LIMITED
920 Major Bennett Drive
Peterborough, Ontario
K9J 6X6

Attention: Mark Smith
Manager, Operations

Dear Mr. Smith:


On 10 December 2013, I visited the work place located at 920 Major Bennett Drive, Peterborough, Ontario, K9J 6X6 for the purpose of conducting an investigation.

Please be advised that pursuant to subsection 145(8) of the *Canada Labour Code*, Part II, you are required to inform me in writing, no later than 24 January 2014, of the measures taken to comply with the attached direction, and to provide a copy of that written response to the Work Place Health and Safety Committee and the policy health and safety committee, if one exists.

Also, please be advised that, pursuant to subsection 145(5) of the *Canada Labour Code*, Part II, the employer shall, without delay, cause a copy of this direction to be posted and give a copy of it to the Work Place Health and Safety Committee and the policy health and safety committee, if one exists.

Finally, pursuant to subsection 146(1) of the *Canada Labour Code*, Part II, you may request, within thirty days of the date of the direction being issued or confirmed in writing, a review by an appeals officer of the Occupational Health and Safety Tribunal Canada, who may be contacted at www.ohstc-tsstc.gc.ca. However, pursuant to subsection 146(2) of the *Canada Labour Code*, Part II, the request does not relieve you from complying with the direction unless otherwise ordered by a Tribunal appeals officer on application by the employer, employee or trade union.

Sincerely,


BOB TOMLIN
Health and Safety Officer
ID No.: ON0243
4900 Yonge Street, Penthouse
Toronto, Ontario
M2N 6A8

Telephone Number: (289) 251-2639

Email Address: bob.tomlin@labour-travail.gc.ca

National Toll Free: 1-800-641-4049

Att.



IN THE MATTER OF THE *CANADA LABOUR CODE*
PART II — OCCUPATIONAL HEALTH AND SAFETY

DIRECTION TO THE EMPLOYER UNDER PARAGRAPH 145(2)(a)

On 10 December 2013, the undersigned health and safety officer conducted an investigation following a refusal to work made by **Mr. Brian Mills** in the work place operated by **BRINK'S CANADA LIMITED**, being an employer subject to the *Canada Labour Code*, Part II, at 920 Major Bennett Drive, Peterborough, Ontario, K9J 6X6, the said work place being sometimes known as **BRINK'S CANADA LIMITED**.

The said health and safety officer considers that the performance of an activity constitutes a danger to an employee while at work:

The diminished ability of a 'One Off' crew to monitor for the risk of exposure to the known hazard of assault and injury during a robbery attempt while servicing front loading ATM machines and during travel to and from the truck constitutes a danger to the Messenger/ATM Tech1 as defined by Part II of the Canada Labour Code.

Therefore, you are **HEREBY DIRECTED**, pursuant to paragraph 145(2)(a) of the *Canada Labour Code*, Part II, to take measures to correct the hazard or condition that constitutes the danger immediately.

Issued at Peterborough, this 22nd. day of January, 2014.

BOB TOMLIN
Health and Safety Officer
Certificate Number: ON0243

To: **BRINK'S CANADA LIMITED**
920 Major Bennett Drive
Peterborough, Ontario
K9J 6X6



Refusal to Work in Case of Danger
Canada Labour Code - Part II

Investigation Report and Decision

I. Identification of Parties Involved

1. **Employer:**

BRINK'S CANADA LIMITED
920 Major Bennett Drive,
Peterborough, Ontario,
K9J 6X6
(705) 742-8961

2. **Employer's representative(s):**

Mark Smith
Manager Operations
705-742-8961

3. **Employee(s) involved:**

Brian Mills
920 Major Bennet Drive
Peterborough, Ontario
K9J 6X6

705-742-8961

ATM Tech1

4. **Employee's representative:**

Don Grills

Union Representative

705-742-8961

5. **Work place involved:**

Peterborough Terminal

6. **Date of the continued work refusal:**

29 November 2013

7. **Date and time of notification to the Labour Program of HRSDC:**

29 November 2013 at about 09:00hrs.

8. **Notification received by:**

Karen Malcolm, Health and Safety Officer

9. **Date and time of the health and safety officer's began the investigation:**

10 December 2013 at about 09:30hrs.

10. **Name of the investigating health and safety officer:**

Bob Tomlin

11. Person accompanying the health and safety officer:

N.A.

II. Investigation by the Health and Safety Officer

1. Statement of the refusal to work:

The 'One Off' model has me going into the machines without a guard. I feel this presents a danger of increased risk of attack from behind. I can't see anyone coming because while I am doing the work I am alone and I can't monitor the work space around me.

2. Employee's description of the events:

When I am working on the machine I am facing the ATM.

I am working keys with my hands and that requires my full attention.

My back is to the public and I cannot monitor the area around me.

I do not have a guard with me at this time.

The driver is in the truck and must stay there.

Cash jams can occur while working on the machines and I must then pull out the racks of cash exposing the liability to the public. The safe door must be opened before commencing work and this is another time when the liability is exposed.

If most thefts are done with internal knowledge then this model facilitates those attacks more.

Everyone knows the content in the coal bag is cash and I do not believe a reduced amount of liability reduces the risk of attack.

The radios are not always reliable and we do not know if the CCTV is operable at all locations.

3. Employer's description of the events:

There are fewer attacks attempted on armoured cars during daylight hours.

The 'One Off' model is only used in daylight hours.

The cash liability in the 'One Off' model is reduced by about 33%. The reduction in the amount of cash and the reduction in the amount of time when it is exposed makes it less desirable and therefore less risk to the crew of coming under attack.

The cash is contained in cassettes inside the coal bag when it is taken off the truck. The raw cash is not visible to the public and this makes it less desirable to a potential thief.

The driver stays in the truck to monitor the area around the customers site for suspicious activity.

There is radio contact between the driver and the ATM Tech1. There is a panic button in the truck for immediate contact with dispatch. GPS in the truck provides location for emergency response.

Staff are also equipped with side arms, protective vests and wear uniforms.

4. Work being accomplished at the time of work refusal:

The employee refused to work the 'One Off' model crew immediately upon hearing he was scheduled to do so on 29 November 2013. He was instructed by management to go to the first call and refuse again at the customer's site.

5. Facts established by the health and safety officer:

The employee is trained as an ATM tech1.

He has 14 years experience with the company.

He is provided with a uniform and equipment mentioned above and he was wearing all required PPE and uniform on the day he refused to work.

Prior to the 'One Off' model these calls were made by a 3 person crew with 1 person acting as the guard to continuously monitor for suspicious activity to and from the call and during the time spent at the ATM.

He has received training on the 'one off' model at a 'speak out' (meeting) given by an Operations Manager at the Peterborough branch on 29 November 2013 at the start of his shift.

~~The meeting lasted 45 - 60 minutes with a question and answer segment.~~

Some of the modifications to the function of the ATM Tech1 include but are not limited to the following:

- He performs the work solo off the truck without the benefit of a guard
- He places raw cash into the cassettes inside the truck
- He makes at least 2 trips between the truck and the machine
- He takes the coal bag with him on both trips
- On the first trip he removes old cash from the machine and places it in the coal bag and returns to the truck
- On the second trip he takes new cassettes of cash to the ATM to load the machine

On 16 December 2013 at about 10:30hrs I observed a mock delivery to a customer's site that is a convenience store in a strip mall.

The truck was parked directly in front of the entrance door. The ATM was located at the back of the store approximately in line with the position of the truck. The ATM was also located next to the Lotto Centre booth. It is my understanding the driver's view to the ATM was obstructed by the glare of the sun on the windows of the store. He could not see the Tech1 performing his work or any activity in the store. He could see customers enter and exit the store.

Although the driver was able to park the truck in the most desirable location at this store, his ability to monitor for suspicious activity and potential threat was restricted to the exterior of the building. It is not always possible to get the best parking location that would afford optimum sight lines for the Driver.

On the first trip to the ATM the Tech1 commenced work to open the machine but was suddenly required to stop when a customer approached the Lotto Centre, standing directly beside the Tech1. The customer remained there for approximately 10 minutes. The location of the customer was well within what is referred to as the danger zone. It should be noted that on the first trip the Operations Manager was acting as a Guard and he could see the approach and caution the Tech1 of the arrival of the customer to the Lotto Centre. This could afford the Tech1 some time to make adjustments to his routine.

On the second trip while the tech1 was at the ATM a customer arrived to use the ATM machine. The customer stood back and to the side of the Tech1 while he completed the work. At this time the Tech1 was solo without the benefit of a guard.

While he was working on the ATM the Tech1 was not able to see customers arrive until they had entered the danger zone. It was explained to me the danger zone is within a distance of about 21 feet. It is referred to as the danger zone because that distance is easily and quickly covered by an attacker, quite possibly before the Tech1 would have the chance to react in defense and almost certainly before he could communicate with the driver.

It is my understanding that most attacks on armoured cars are made by persons with internal knowledge of the work being performed. A small percent of thefts are still conducted by attackers in what is called a crime of opportunity. It appears that the loss of continuous monitoring by the Guard accompanying a Tech1 would facilitate an attempt in either case more easily.

On 20 December 2013 I requested responses to the following 3 questions. The answers were returned on 3 January 2014 and are shown in bold below each question:

#1.

What measures under hazard prevention regulation #19 does the company consider mitigates the diminished ability for a 'One Off' crew to continuously monitor the work location for undesirable activity that could present a danger to the crew?

In addition to the site inspection and Life module training, not performing the replenishment of cassettes onsite.

#2.

What measures/factors does the company consider addresses the potential for an increase in the crime of opportunity and/or planned crime against a 'One Off' crew as a result of diminished ability to continuously monitor for suspicious activity at the work location?

Reduced premise time on site at the machine.

#3.

What measures under hazard prevention regulation #19 does the company provide to ensure all persons in the 'One Off' crew have the same or better ability and opportunity to engage emergency escape and/or life preservation procedures as they would have if a Guard was present?

Life training module, site inspection process and review of standard safety protocols.

I asked the employer to be more specific in their responses and I received the following responses;

Question: What site changes would cause an increase in crew size?

For example if the store layout changed and the ATM machine was positioned further from the door, out of site from the front counter or entrance area.

Question 1

The H and S committee reps both ee and er, were provided with a template document that listed specific characteristics about the individual sites. There was no specific training involved as the completion of the forms were purely objective based on site specific information.

Question 2

The list on page 17 was used to determine if the change to the crew compliment imposed a "danger" to the employees. It was not determined to be a danger as is summarized on pages 16 and 17 of the security report.

Perhaps for further clarity , in order to get the most precise representation of the risk associated with the reduction in the crew compliment, we looked at, and analyzed, the following sub categories that all serve to assist in failing criminal selection criteria's and thus reduce the risk to our employees to a level consistent with the inherent danger of the job.

- 1. Industry trends in attacks**
- 2. Overall crime rates**
- 3. Hours of operation**
- 4. Communication**
- 5. Accessibility**
- 6. Exposure**

- 7. Training and appearance**
- 8. Load liability/ asset limits**

Several of the above categories are addressed in the Security report. In addition it is important to note the following:

- **As long as there are radio communication capabilities between the Driver and the Messenger, there is no specific additional risk if the Driver cannot see the Messenger. (Brink's Canada currently has an operating model involving a 2 person crew where only the Messenger gets out of the truck. (armoured). These runs almost always involve servicing customer locations where there is no ability for the Driver to see their Messenger once they enter the location.**
- **Statistical analysis of industry attacks specifically showing decreased risk to any operating model that ensures the presence of one employee secured inside the armored vehicle to monitor the surroundings, identify potential threats, contact emergency services if something should happen, and act as an important deterrent.**
- **Exceptional standards of training being provided to all Brink's employees regarding general attitude and behaviors demonstrated by armoured car employees as a means of failing criminal selection criteria's.**
- **Exceptional standards of training being provided to all Brink's employees regarding what to do in the event of an attack to ensure no risk to their lives or the lives of others.**
- **Statistical analysis of industry attacks specifically showed very little risk to 2 person 1 off crews servicing ATM machines. Based on the ratio of runs out on the road that are subject to attack between Canada and US, and the number of US attacks the likelihood of any Canadian attacks is minimal to none**
- **Lower load liabilities which have proven statistically to be a deterrent in criminal selection criteria's.**

The security report referenced above is the ABM Risk Analysis 2013 produced by the National Security Department at Brink's Canada.

Primary functions of the Guard were to monitor for the risk of exposure to the hazard and communicate changes in conditions that might necessitate initiating preventive measures by the crew. In combination with the driver in the truck, continuous monitoring may be the most effective measure to minimize the risk of exposure to the hazard because it provides the best opportunity to engage appropriate procedures at the earliest opportunity. With the loss of a Guard, I consider there is a corresponding loss in the ability to monitor for the risk of exposure to the hazard while performing work at the ATM and travelling to and from the truck.

The employer argues, in part, that the decrease in the number of armoured car robberies in recent years supports the elimination of the Guard position in their crews. They further argue this is facilitated by communications between the Driver and the Tech1 even when the Driver cannot see the Tech1. The company also informed me that there were fewer attacks on their crews than their competitors. I do not challenge this information except to say the company was using 3 person crews with a Guard during the time frame these statistics were gathered and having said that I must consider the Guard had a positive impact on the numbers. I also consider the Guard's ability to communicate with the Driver is less restricted than the Messenger/Tech1 who is engaged with manipulating keys/codes on the ATM and in any event may not see the need to communicate is necessary.

It is my understanding there was a robbery of an armoured car crew in Quebec in late fall of 2013. It is agreed that the hazard as it relates to a risk of robbery cannot be removed. Therefore the employer continues to have an obligation to minimize their employees' risk of exposure to the hazard.

III. Decision of the Health and Safety Officer

I consider the diminished ability to monitor for the risk of exposure to the known hazard of assault and injury during a robbery attempt while servicing front loading ATM machines and during travel to and from the truck constitutes a danger to the messenger/Tech1 as defined by Part II of the Canada Labour Code.

IV. Rights, Recourses, and Prohibitions and Abuse of Rights

1. Appeal of the decision of absence of danger to the appeals officer:

129.(7) If a health and safety officer decides that the danger does not exist, the employee is not entitled under section 128 or this section to continue to refuse to use or operate the machine or ~~thing, work in that place or perform that activity, but the employee, or a person designated by~~ the employee for the purpose, may appeal the decision in writing to an appeals officer within ten days after receiving notice of the decision.

2. Complaint to the Canada Industrial Relations Board:

133.(1) An employee, or a person designated by an employee for the purpose, who alleges that an employer has taken action against the employee in contravention of section 147 may, subject to subsection (3), make a complaint in writing to the Board of the alleged contravention.

(2) The complaint shall be made to the Board not later than ninety days after the date on which the complainant knew, or in the Board's opinion ought to have known, of the action or circumstances giving rise to the complaint.

(3) A complaint in respect of the exercise of a right under section 128 or 129 may not be made under this section unless the employee has complied with subsection 128(6) or a health and safety officer has been notified under subsection 128(13), as the case may be, in relation to the matter that is the subject-matter of the complaint.

3. Review of direction by the appeals officer:

146. (1) An employer, employee or trade union that feels aggrieved by a direction issued by a health and safety officer under this Part may appeal the direction in writing to an appeals officer within thirty days after the date of the direction being issued or confirmed in writing.

4. General prohibition to the employer:

147. No employer shall dismiss, suspend, lay off or demote an employee, impose a financial or other penalty on an employee, or refuse to pay an employee remuneration in respect of any period of time that the employee would, but for the exercise of the employee's rights under this Part, have worked, or take any disciplinary action against or threaten to take any such action against an employee because the employee

(a) has testified or is about to testify in a proceeding taken or an inquiry held under this Part,

(b) has provided information to a person engaged in the performance of duties under this Part regarding the conditions of work affecting the health or safety of the employee or of any other employee of the employer, or


(c) has acted in accordance with this Part or has sought the enforcement of any of the provisions of this Part.

5. Abuse of rights:

147.1 (1) An employer may, after all the investigations and appeals have been exhausted by the employee who has exercised rights under sections 128 and 129, take disciplinary action against the employee who the employer can demonstrate has wilfully abused those rights.

(2) The employer must provide the employee with written reasons for any disciplinary action within fifteen working days after receiving a request from the employee to do so.

Issued at Peterborough, this 22nd. of January, 2014.



BOB TOMLIN

Health and Safety Officer

Id. No. ON0243

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