

# Appeals Court Upholds Acquittal on Two OHS Charges But Convicts on Third



A worker was in a water intake tunnel when a large slab of ice fell from the tunnel's wall and seriously injured him. As a result, the MOL charged his employer and a supervisor with OHS violations. The trial court dismissed the charges, ruling that the prosecution hadn't proven them beyond a reasonable doubt and alternately that the defendants had exercised due diligence. The government appealed. The appeals court found that the trial court's verdicts dismissing two of the charges were clearly and easily understandable and patent. But as to the remaining charge, which claimed the employer didn't provide a basket and crane with their rated load capacity posted on them, the appeals court overturned the acquittal and convicted the employer. The evidence established that the crane was missing its rated load capacity chart and so the employer was in violation [*Ontario (Ministry of Labour) v. Dufferin Construction Co.*, [2014] ONCJ 652 (CanLII), Dec. 8, 2014].