

Can a Worker Get Too Much Safety Training?



A critical element of any effective OHS program is the provision of safety training for workers. Employers must train workers on general safety, such as the workplace's emergency response procedures, as well as the specific jobs they'll be doing, the hazards they'll face and the tools, equipment and substances they'll be using. But is there such a thing as providing *too much* safety training? In a recent OHS case from Saskatchewan, the Crown essentially made that argument. Here's a look at what it claimed and how the court ultimately ruled.

THE CASE

What Happened: At a grain terminal, the instruments in the control room showed that the grain in one of the receiving pits was flowing very slowly. The assistant manager concluded that either the pit was empty or there was a blockage at the screen in the bottom of the pit, preventing grain from emptying. So he told a worker to look into the pit with a flashlight to see if there was any grain in it or if it was blocked. The worker did so and reported that there was just some minor buildup. So the assistant manager dumped the next load to flush this buildup. But an hour later, the grain was again flowing slowly. The assistant manager asked the same worker to again look into the pit with a flashlight. The assistant manager then went to tell a truck driver with a load of grain to wait as they checked the pit. While he was doing so, the worker entered the receiving pit, where he was engulfed and died of suffocation. The company was charged with six violations of federal OHS law for, among other things, failing to instruct, train and supervise the worker on how to respond to and unplug blockages in a grain pit.

What the Court Decided: The Queen's Bench for Saskatchewan acquitted the company, ruling that the Crown failed to prove the charges.

The Court's Reasoning: The company showed that the worker had gotten extensive safety training, such as computer-based training on various topics including confined spaces. Specifically, he'd completed 12 training modules that covered:

- The dangers inherent in a grain terminal, including the dangers of engulfment;

- The dangers relating to entering a confined space, such as a receiving pit; and
- The proper procedures to follow before and during entering a confined space.

At the end of each module, the worker took and passed a test. He also took five hands-on training courses but not the hands-on training for confined space entry. The extensive training materials the worker was given contained numerous references to the dangers of entering a confined space, such as a receiving pit. But the prosecutor argued that the necessary information about the hazards of entering a confined space would've have been lost on the worker because it was 'buried in the mass of material.'

However, the court rejected this argument, ruling that the 'mass of material *emphasized* the dangers, and the importance of following the safety procedures, rather than burying them.' Through the company's training and education, the worker learned the dangers of entering a confined space, the need to follow safety procedures in doing so and the fact that a receiving pit *is* a confined space. The court also found that there wasn't a 'culture of paying lip service' to safety in the workplace that would've 'detracted' from the worker's safety training. In this case, the worker was simply directed to take a flashlight and look into the receiving pit'and he was properly trained for this task. There was no reason to think that he would actually enter the pit, especially given that he knew he hadn't yet gotten all the necessary training in the safety procedures for entering such a confined space. The court added that if it had found that the charges *were* proven, it would've ruled that the company exercised due diligence [*R. v. Viterra Inc.*, [2016] SKQB 269 (CanLII), Aug. 19, 2016].

ANALYSIS

The court in *Viterra* acknowledged that the company's training material contained many photos, drawings and words. But it ultimately concluded that the volume of material didn't necessarily mean that the information in that material wasn't understandable or that the worker wouldn't have been able to learn and retain what he had learned. Moreover, the worker was tested at the end of each training module to check his comprehension of the material and ensure that the important information wasn't buried. Thus, the case illustrates the importance of providing safety training, documenting the training you provide and testing workers to ensure that they understand this training.