

Construction Contractor Used Due Diligence to Prevent Dump Truck Fatality



A bulldozer operator was killed after being run over by a dump truck moving slowly in reverse. The employer admitted that OHS violations had occurred 'a dedicated signaller wasn't in place to assist the driver and steps weren't taken to ensure the victim was in the driver's view' but claimed due diligence. We distributed and regularly monitored a traffic safety policy incorporating the required signalling procedures, it argued, and it wasn't our fault those procedures weren't followed. The court agreed. The evidence was thin but enough to show that the victim, who happened to be the driver's supervisor, saw that the driver wasn't following the procedure but didn't stop him before he backed up. The victim also could and should have put himself in the driver's full view but didn't so. He had the necessary training but his judgment may have been clouded by the cannabis found in his body during the autopsy. So in a very close case, the court found that the employer had done just enough to squeak by on due diligence [*Ontario (Ministry of Labour) v. 614128 Ontario Ltd. (Trisan Construction)*, 2018 ONCJ 168 (CanLII), March 14, 2018].