

Court Nixes Due Diligence Defence for Training and Machine Guarding Violations



A gravel pit worker jumped over a conveyor to unclog a chute but his foot got caught in an unguarded frame of a moving tail pulley tearing off his leg. He bled to death. The employer was convicted of 2 OHS violations: i. Failure to provide the victim proper safety information, training supervision. Although it had an OHS program, the employer had no safe work procedure for unclogging a chute. And the fact that it was able to come up with one almost immediately after the incident showed that it didn't use due diligence to prevent the violation. ii. Failure to guard the pulley. The unguarded pulley posed a danger to any worker, the Saskatchewan court reasoned, and the trace amounts of alcohol found in the victim's blood didn't cause the incident. The only good news for the employer was that the court tossed the charge of failing to ensure that there was an easy-to-reach stopping device on the machine due to lack of evidence [*R v BLS Asphalt Inc.*, 2021 SKPC 25 (CanLII), March 30, 2021].