

Due Diligence Defence Fails for Lack of a Written Policy & Training



A worker removed a fence guarding the back of an induction hardener to troubleshoot a leak. He was seriously injured by an electrical shock. The employer was charged with failing to provide the worker with sufficient instruction on troubleshooting a leak. The company argued that the worker didn't use a spotter as required by his training. But the court found that its training as to the use of spotter while troubleshooting was unclear. The training focused on lockout procedures and left workers to decide on their own when to get help while troubleshooting a machine. Given the amount of troubleshooting done in the workplace, due diligence required the employer to develop a written policy on troubleshooting and a related training program. So the court convicted the employer [*Ontario (Ministry of Labour) v. Linamar Holdings Inc.*, [2012] O.J. No. 2159, May 7, 2012].