# Due Diligence Defence Rejected as to Conveyor Belt Incident



A worker bent down to plug in a portable scale under a moving conveyor belt. She felt something tug her from behind. She tried to use her hands to avoid getting pulled into an unguarded drive shaft. The worker lost some hair, injured her hand and part of her thumb was amputated. The employer was charged with two OHS violations. The court convicted the employer, rejecting its due diligence defence. It was reasonably foreseeable that the unguarded drive shaft posed a safety hazard. But the employer didn't take reasonable steps to protect workers from this hazard, such as by guarding the shaft, properly training workers on the dangers of conveyors or posting signs warning people to be cautious around conveyors. The court also rejected the reasonable mistake of fact argument that company officials reasonably believed that guards *were* installed on the conveyor's drive shafts [*R. v. Value Drug Mart Associates Ltd.*, 2014 ABPC 164 (CanLII), July 29, 2014].