

Employer Used Due Diligence to Prevent Worker's Fatal H2S Gas Exposure



While working alone inside an oilfield facility building, a sales rep drawing a liquid product sample is killed by a lethal release of Hydrogen Sulphide gas. The Crown charges the employer with a laundry list of OHS violations but the only one that sticks is failure to furnish the victim an atmosphere supplying respirator. And even that charge fails because the court says the employer showed due diligence. While 'imaginable,' the incident wasn't reasonably foreseeable given that the victim had performed the operation thousands of times without incident. Moreover, the employer took reasonable steps to protect workers from exposure to harmful chemicals including implementing a formal Health and Safety Management System subject to regular audit and review and 'never hesitating' to buy safety equipment for workers when needed or requested [*R v Nalco Champion*, 2018 SKPC 61 (CanLII), Nov. 2, 2018].

Editor's Note: Although not necessarily wrong, this ruling is somewhat surprising, especially since it involved a fatality. Bet your bottom dollar that the Crown will appeal.