

Investigation of Employee a Reprisal for Her Work Refusal



A Border Services Officer and seven co-workers with the Canada Border Services Agency initiated a work refusal based on certain safety issues. During a hearing on the work refusal, she gave some 'protected' Agency documents to her lawyer. The Agency conducted a 'Professional Standards Investigation' into her allegedly unlawful disclosure of these documents. After finding that she'd violated Security Policy, the Agency ordered her to participate in a 'learning conversation' on the sharing of 'protected' documents. The officer argued that the investigation and order were in reprisal for her work refusal. An arbitrator found that Agency's e-mails showed that the professional standards investigation was a reprisal for her work refusal in violation of Sec. 147 of the *Canada Labour Code*. The tone of the e-mails showed that the Agency was frustrated with the officer's work refusal, wanted her to stop pursuing security issues and hoped that the investigation would cause her to do so. The arbitrator also ruled that the use of the term 'learning conversation' was a 'carefully chosen ruse' intended to avoid the finding that she was being disciplined because of her work refusal [*Martin-Ivie v. Treasury Board (Canada Border Services Agency)*, [2013] PSLRB 40 (CanLII), April 12, 2013].