

# Testimony about Worker's Phone Call Minutes Before Death Ruled Inadmissible



A company was charged with OHS violations after a worker was fatally electrocuted. At its trial, the government sought to introduce testimony about a phone call the deceased worker made minutes before he died. A co-worker would testify that he heard the deceased worker ask the company owner for directions on how to add a service cable to the electrical panel, which was still energized. Soon after this call, he was electrocuted. The company objected, arguing such testimony was inadmissible hearsay. The court explained that testimony about the deceased worker's statements would be admissible if the testimony was necessary and reliable. Because the worker was dead and couldn't testify, testimony about his statements was necessary. But due to conflicting evidence as to whether the phone call happened and what was said during it, the court concluded that there was 'insufficient indicators of reliability' to admit hearsay testimony about the alleged call [*R. v. R.D. Longard Services Ltd.*, [2015] NSPC 7 (CanLII), Feb. 4, 2015].