

Employer and Contractor Thrown in Jail for Dishonesty

Ontario employers (and independent contractors) need to be aware that our Courts are willing to enforce the provisions of the Occupational Health and Safety Act (“OHSA”) that allow for criminal prosecutions (and subsequent jail time) for health and safety violations. Two recent cases highlight that being dishonest with respect to health and safety obligations can land employers/contractors in more than just hot water!

The first case involved Daniel Lane, who operated his contractor business in the name of HomeSeal. Mr. Lane received a 30 day jail sentence and \$45,000.00 in fines for advising a homeowner that he removed asbestos in accordance with OHSA and that he was certified to perform the work. Both claims turned out to be lies and the Court convicted Mr. Lane of nine counts under OHSA.

The most recent case involved an employer operating as A.B. Clothier Roofing. In that particular case, an employee without the proper fall protection equipment fell from a roof and was injured. In an effort to deceive the Ministry of Labour (“MOL”), the owner directed another employee to return to the roof and set up the proper fall protection equipment before the inspector could arrive. The owner eventually plead guilty to two offences - (a) attempting to obstruct and interfere with an MOL investigator/investigation and (b) failing to ensure workers were properly protected against falls. In addition to the jail time, the owner was fined \$5,000.00. It is safe to assume that had the owner not plead guilty, his punishment would have been much more severe.

These two cases highlight the importance of being honest with respect to OHSA obligations and inspections under OHSA and the reality that jail time will be imposed in the appropriate circumstances.

No one wants to end up in jail! So, if you have any questions about this topic, or any other labour and employment matter, please do not hesitate to speak with one of our Advisors.