

## ***Supreme Court of Canada Clarifies Scope of Health and Safety Inspections***

In its last decision of 2019, the Supreme Court of Canada considered the scope of an employer's obligation to inspect its workplace in *Canada Post Corp. v. Canadian Union of Postal Workers*.

In 2012, the Union filed a complaint with HRSDC claiming that Canada Post was in breach of the *Canada Labour Code*. In particular, the Union alleged that Canada Post failed to adhere to section 125.1(z) of the Code which states that every employer shall ensure that the work place committee or the health and safety representative inspect all or part of the workplace each month, so that every part of the workplace is inspected at least once each year.

It is important to note that this section of the Code states that the obligation to conduct inspections is specifically *"in respect of every work place controlled by the employer and, in respect of every work activity carried out by an employee in a work place that is not controlled by the employer, to the extent that the employer controls the activity"*.

Canada Post's practice was to only inspect the Burlington facility and did not extend inspections to mail routes or other locations where mail was delivered. The HRSDC Officer investigated the complaint and agreed with the Union that Canada Post had failed to inspect every part of the workplace. Canada Post disagreed with the Officer's decision and argued that the obligation to inspect did not extend to parts of the workplace where they had no control, such as the carrier's mail routes and all other locations where mail was delivered. The Appeals Officer agreed with Canada Post.

The case continued to make its way all the way to the Supreme Court of Canada and the Supreme Court confirmed the Appeals Officer's decision that the section of the Code pertaining to inspections applied only to parts of the workplace the employer has control over. The Case in Brief published by staff of the Supreme Court notes that:

*"The purpose of the inspections was to find and fix dangers. Canada Post didn't control the mail routes or most of the places mail was delivered. Many of them were on private property. If there was a danger, Canada Post didn't have the power to fix or change it. Inspecting the routes and delivery places each year wouldn't make workers safer"*.



It is important to note that Canada Post is a federally regulated employer and so while this matter dealt specifically with a section of the *Canada Labour Code* it could be considered in future decisions for provincially regulated employers.

If you have any questions regarding the applicability of this decision to your workplace, please contact e2r® to speak with an Advisor.

