

Appeal court upholds C\$5.3 million combined fine in Sunrise Propane case

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In 2008 explosions at a propane facility in Toronto resulted in the death of one worker and damage to many houses.(1) An Ontario court has now upheld a combined fine of more than C\$5.3 million, plus a 25% victim fine surcharge, against Sunshine Propane Energy Group, a related company and two corporate directors.

The appellants in *R v Sunrise Propane Energy Group Inc* (2017 ONSC 6954 (CanLII)) were found guilty of seven charges under the Environmental Protection Act and the Occupational Health and Safety Act.

With respect to the Occupational Health and Safety Act charge of failing to provide information and instruction to the worker, the court noted that the worker who died had only four to five months' experience at the company and was effectively left in charge of the yard on the day of the explosions – "a position prohibited by his lack of education, experience and training". The trial court held that the explosions were a foreseeable event given that an untrained employee had been left in charge, and the appeal court agreed. The appeal court also agreed that the fact that the worker ran towards the explosions, instead of away from them, showed his lack of training.

The appeal court also held that the fines imposed were appropriate. The Environmental Protection Act fines of C\$5.02 million (including C\$100,000 against each of the corporate directors) were unprecedented; however, there were a number of aggravating factors, including the "widespread damage and effects caused by the appellants' reckless behaviour in conducting truck-to-truck transfers without licence and with full knowledge of the risk". In addition, "the magnitude of the event was unprecedented in Ontario". The Occupational Health and Safety Act fines of C\$280,000 were also appropriate in the circumstances.(2)

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Endnotes

(1) For details on the trial decision and fines please see [here](#).

(2) For more information please see www.occupationalhealthandsafetylaw.com.

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