



Metron Construction accident results in criminal conviction and \$200k fine

07 septembre 2012

Kathleen Chevalier

Ce billet est disponible en anglais seulement.

Metron Construction Corporation is the first in Ontario to be convicted under the [Criminal Code](#), after entering a guilty plea to the charge of criminal negligence causing death. Metron was fined \$200,000.00, and its president was also fined \$90,000.00 after entering a guilty plea to four charges under the [Occupational Health and Safety Act](#).

The criminal and OHS charges were the result of an accident on December 24, 2009 which occurred while Metron's workers were repairing concrete balconies on a high rise building. After climbing onto a swing stage to travel back to the ground, the swing stage collapsed, resulting in five workers falling fourteen storeys to the ground. Four workers were killed and one was seriously injured. A sixth worker, who was properly harnessed and attached to a safety line, was not injured.

The resulting Ministry of Labour investigation revealed that five of the six workers were not properly harnessed and attached to safety lines, and had not been properly trained in the use of fall protection. Further, the swing stage was not in proper condition and was loaded in excess of its maximum weight capacity.

During the hearing it was also revealed that the site supervisor, who was among the deceased workers, knew or ought to have known that the swing stage was unsafe and had nonetheless allowed the six workers to board the swing stage. Three of the workers (including the site supervisor) had marijuana in their systems at a level consistent with recent ingestion.

Prior to the accident Metron had complied with all Ministry of Labour orders and Metron had over twenty years of experience in the construction industry.

Metron's president entered a guilty plea to four charges under the OHS Act, each stemming from his breach as a director to take all reasonable care to ensure the health and safety of Metron's workers. The court imposed a fine of \$90,000.00 and a victim surcharge of \$22,500.00.

With respect to the criminal negligence charge, Metron submitted that a \$100,000.00 fine was appropriate, while the Crown sought a fine of \$1 million. The court ultimately evaluated the facts in light of the sentencing factors applicable to corporations and held that a fine of \$200,000.00, plus a victim surcharge of \$30,000.00 was reasonable in the circumstances. As the total of the fines (\$342,500.00) amounted to three times Metron's net earnings in the year prior to the accident, the court determined that the sentence

sent a clear message about the importance health and safety compliance, while allowing Metron's business to stay afloat.

The Ministry of the Attorney General has since filed an application for leave to appeal the sentence with the Court of Appeal. The Ministry has sought leave to argue, among other things, that the fine imposed on Metron was manifestly unfit, and should be increased to reflect what it perceives to be a high level of culpability. We will provide updates as this matter continues to evolve.

Our View

The Metron case is a clear example of the importance of adhering to health and safety requirements, and the consequences for organizations that fail to comply with their safety obligations. Further, we note that in this case the actions of a supervisor were sufficient to attract criminal liability. While the role of a supervisor on a construction site may be of increased significance when compared to a supervisor in other operations, it is indicative of the fact that in this area one does not necessarily need to be the "directing mind" of the corporation to subject it to potential criminal liability. This reaffirms the need to appoint competent supervisors, train them appropriately, and ensure that they are supervised to the extent possible. For more information please see [R. v. Metron Construction Corporation](#).

MISE EN GARDE : Cette publication a pour but de donner des renseignements généraux sur des questions et des nouveautés d'ordre juridique ; la date indiquée. Les renseignements en cause ne sont pas des avis juridiques et ne doivent pas être traités ni invoqués comme tels. Veuillez lire notre mise en garde dans son intégralité ; au www.stikeman.com/legal-notice