



**PER CORAM:**

James LeBlanc, Executive Director of the Occupational Health and Safety Division of the Nova Scotia Department of Labour, has appealed to this court on grounds of denial of natural justice two decisions of the Occupational Safety Appeal Panel dismissing appeals resulting from the layoff of two employees, Leonard Jeffrey and Gordon LeLacheur by Gendron Steel Limited.

Counsel for Mr. LeBlanc, the Panel, Gendron, Mr. Jeffrey and Mr. LeLacheur acknowledging that a denial of natural justice may have occurred, have consented to an order that the Panel's decisions be quashed and remitted for fresh hearings before other panel members.

The matter before the panel required consideration of the manner of construction of "re-bar cages." A panel member called a union official, a stranger to the appeal, on the first day of the hearing to discuss "how you tie re-bar."

The discussion, one of a number between the two men, came to light in the course of an investigation into whether the decision had been prematurely released. Mr. LeBlanc asserts the nature of the re-bar discussion was not communicated to the parties at the hearing, who had no opportunity to correct, rebut, clarify, object, or make representations with respect to them.

The appeal is scheduled to be heard January 11, 1999, by a panel of this court, which has jurisdiction to review for error or law or jurisdiction under **s. 70 (1)** of the **Occupational**

**Health and Safety Act, S.,N.S. 1996 c. 7** The consent order was submitted with the apparent intention of dispensing with the appeal hearing and the delay. In lieu of a hearing we have considered the record, and in particular the evidence on file with this court, which is not objected to by the parties. It would inevitably lead to a finding of denial natural justice, a jurisdictional matter, and we so find. The appeal is therefore allowed, the appealed-from decisions are quashed, and the matters are remitted to the Occupational Health and Safety Panel for a rehearing before different panel members pursuant to the consent order.

Freeman, J.A.

Roscoe, J.A.

Pugsley, J.A.

NOVA SCOTIA COURT OF APPEAL

**BETWEEN:**

JAMES LeBLANC, Executive Director of )  
Occupational Health and Safety Division )  
of Nova Scotia Department of Health )

Appellant )

- and - )

IVANO ANDRIANI, KENNETH CHISHOLM, )  
and MICHAEL HEWITT in their capacity as )  
the Occupational Health and Safety Appeal )  
Panel (Nova Scotia), LEONARD JEFFREY, )  
GORDON LeLACHEUR and GENDRON )  
STEEL LTD./ACIER GENDRON LTEE. )

Respondent )

REASONS FOR  
JUDGMENT BY:

Freeman, J.A.