

Citation: *R. v. Lorenz*, 2024 YKTC 14

Date: 20240402  
Docket: 23-04755  
Registry: Whitehorse

**IN THE TERRITORIAL COURT OF YUKON**  
Before Her Worship Justice of the Peace Morrison

REX

v.

JAMES DEAN LORENZ

Appearances:  
Stuart Leary  
James Lorenz

Counsel for the Territorial Crown  
Appearing on his own behalf

**REASONS FOR JUDGMENT**

[1] MORRISON J.P.T.C. (Oral): This is the matter of James Lorenz, who is charged under s. 10(1) of the *National Safety Code for Motor Carriers*.

[2] Counsel, I apologize that it is so late that I am giving my decision. I know there were appearances where I was not available. Thank you for your patience.

[3] This matter commenced on December 12, 2023, by way of a trial.

[4] I am going to review the evidence briefly.

[5] On June 29, 2023, there was a joint enforcement patrol with the RCMP and Carrier Compliance Officer, Mr. Stewart, on the North Klondike Highway near Carmacks.

[6] While they had another vehicle stopped, Mr. Stewart observed a truck coming, in his words, “a little fast”. The constable told him to flag it over and to have a chat with the driver. When the truck was flagged over, the vehicle slowed down right away and pulled over. Mr. Lorenz was identified as the driver of the vehicle by his driver’s licence and was known to Mr. Stewart from his past dealings with him.

[7] When walking over to the vehicle, Mr. Stewart noticed a large piece of wood on the trailer deck. His evidence with respect to that piece of wood is as follows.

[8] It was a large piece of wood at an angle sticking up above the deck of the trailer. When he inspected it, he could grab it with one hand and freely move it back and forth. The vehicle was a tractor-trailer flat deck. There was a piece of equipment on the deck, and on the front of the trailer there was an indentation where you could put pieces of cargo in. The wood was sitting in that indentation but sticking up above the indentation.

[9] There were a number of photographs entered as exhibits.

[10] With respect to exhibit 1, it is a photograph of a block of wood sitting inside a compartment on the trailer where Mr. Stewart could move it back and forth with one hand.

[11] Exhibit 2 is a photograph of the same piece of wood but from a different angle to show it was sticking up above the deck in the air.

[12] Exhibit 3 is a photograph of the end of the interaction with Mr. Lorenz after the ticket had been issued and Mr. Lorenz had strapped down the wood.

[13] Exhibit 4 is a photograph of two mudflaps that were strapped down by a single bungee cord just behind the cab of the truck. It was taken before any ticket was written or charges laid, and it was noticed during Mr. Stewart's investigation in the walkaround of the vehicle.

[14] Upon cross-examination of Mr. Stewart, Mr. Lorenz suggested that he asked Mr. Stewart to demonstrate to him that he could physically move the piece of wood and it is suggested at least 20 times. His question, "How many times did I ask you to show me or touch or move or disrupt the object and show me physically that you could move that piece of wood?" Mr. Stewart's answer was he did not recall how many times he was asked.

[15] Upon further cross-examination, Mr. Lorenz again suggested that he asked Mr. Stewart at least 20 times and was it not his job to demonstrate the wood was unsecure. Mr. Stewart's answer was, "yes", when he walked up to the truck, he was able to move the wood back and forth with one hand.

[16] The next question asked by Mr. Lorenz was, "Did you demonstrate physically to the driver that you could move the wood?" Mr. Stewart said he did not recall.

[17] For clarification, upon further cross-examination, the officer indicated that he could not recall how many times Mr. Lorenz asked him to demonstrate that he could move the wood but it would have been a number of times.

[18] Mr. Lorenz took the stand and gave evidence with respect to the matter.

[19] With respect to Exhibit 1, Mr. Lorenz indicated that:

- more than 85% of it was inside the designated cargo hold;
- this cargo hold was specifically manufactured by the trailer manufacturer for such an item;
- that there is front and rear sides that restrict the movement of the block of wood;
- the block of wood was measured and approximately 15% of the total mass of the block of wood was extended out of the box;
- that the approximate weight of the block of wood was 57 pounds;
- and suggested for the officer to move that block of wood, he would have had to have been quite powerful.

[20] Mr. Lorenz quotes from s. 10, Cargo Securement, and under the General Performance Criteria:

Cargo transported by a vehicle shall be contained,  
immobilized or secured so that it cannot

- (a) leak, spill, blow off, fall from, fall through or otherwise  
be dislodged from the vehicle, or

- (b) shift upon or within the vehicle to such an extent that the vehicle's stability or manoeuvrability is adversely affected.

and that the block of wood, being just under 60 pounds, could not blow off, spill, fall through, or otherwise be dislodged from the vehicle.

[21] Under the cross-examination of Mr. Lorenz, when asked if he had asked the officer 20 times, he answered, "Correct."

[22] Did the officer inform him that he had moved the block of wood? Mr. Lorenz's answer was "not to his knowledge".

[23] "The officer, on walking up to the vehicle — when asked if the officer on walking up to the vehicle did assess the block of wood and did move it, would you agree?" Mr. Lorenz said, "No."

[24] With respect to Exhibit 3, when asked if that was the correct strapping across the block of the wood now, Mr. Lorenz said that the only reason he put it on was that he was threatened with an out-of-service.

[25] With respect to the charge before the Court, in cross-examination, none of Mr. Lorenz's evidence, in terms of the weight of the block of wood or how much of the block of wood was sticking out of the cargo hold, was disputed.

[26] I accept Mr. Lorenz's evidence that the block of wood weighed approximately 57 pounds, and that more than 85% of it was inside the designated cargo hold. I am

satisfied that it could not leak, spill, blow off, fall from, fall through, or otherwise be dislodged from the vehicle or that it could shift within the vehicle to such an extent that the vehicle's stability or manoeuvrability would be adversely affected.

[27] With respect to the evidence on the mudflaps, to come back to that, when giving evidence with respect to the mudflaps, the question was asked, "Are there any circumstances under which a bungee strap would be inappropriate cargo securement?" The answer was, "Bungee straps or tarp straps are not a form of securement. They are not prohibited to be used to restrain light cargo."

[28] I have no evidence with respect to the weight of the mudflaps or whether it is light cargo or not. I simply do not have enough evidence to suggest that that would fall within the offence as well.

[29] Based on all the evidence before me, I find Mr. Lorenz not guilty.

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MORRISON J.P.T.C.