

4.24 Right to Refuse Unsafe Work/Stop Work Policy

Intent

This policy has been adopted to provide appropriate guidelines for any potential work refusal/stoppage in accordance with provincially-specific legislation. The employer endeavours to meet or exceed all workplace health and safety requirements under provincial Occupational Health and Safety Acts.

In accordance with Section 43 of Ontario's *Occupational Health and Safety Act*, Section 35 of Alberta's *Occupational Health and Safety Act* and Section 3.12 of British Columbia's *Occupational Health and Safety Act* in the event that an employee encounters unsafe working conditions, or where the required equipment, tools or machinery present a serious health and safety concern, the employee shall have the right to refuse any work that they believe to be unsafe.

Scope

This policy applies to all employees always and without exception.

Unionized employees are requested to refer to their current Collective Agreement for specific information pertaining to the right to refuse unsafe work/stop work policy. Where the Collective Agreement is silent, bargaining members shall refer to the contents of this policy. In situations where the directions of this policy cover issues also in the Collective Agreement, the Collective Agreement will be the final authority.

This policy has been developed to incorporate the legislative requirements of Alberta, British Columbia and Ontario and shall be updated accordingly should the employer expand its operations into additional provinces.

Guidelines

Any employee can refuse to work if they have a reasonable belief that one or more of the following situations exist:

British Columbia

- The employee has reasonable cause to believe that carrying out a work process or operation of any tool, appliance or equipment would create an undue hazard to the health and safety of their person.

Alberta

- The employee believes that there exists an imminent danger to themselves or another employee's health and/or safety;
- The employee believes on reasonable and probable grounds that operation of a tool, appliance or piece of equipment will cause to exist an imminent danger to the health or safety of that employee or another employee present at the work site.

Ontario

- Machinery, equipment or tools required in the performance of job duties are believed to present a safety hazard and their use may cause an injury to the employee or those nearby.
- The working conditions are unsafe or are in violation of the provincial health and safety legislation, and may cause an injury to the employee or those nearby.
- The employee has a reasonable expectation that the work would place them in danger of physical violence.
- In the event work is refused or stopped, the following actions are required of employers and employees, per provincial guidelines:

Employees

1. Inform management of the work refusal immediately, providing an explanation detailing the rationale behind the work refusal as well as details pertaining to the unsafe condition.
2. Stay nearby in a safe place until an investigation has been completed.
3. If you are unsatisfied with the results of the investigation, you may continue to refuse the work provided you have reasonable grounds to base the continued refusal on.

Management

1. Management shall investigate the situation immediately after learning of the work refusal and will find an effective, safe and mutually agreeable resolution to the issue in the presence of the employee and one of the following:
 - Joint Health and Safety Committee member
 - Another employee that has been chosen by his peers (or union) to represent the employees.
2. Where management believes, the report is not valid they must inform the person who made the report.
3. A written record of the notification, investigation and actions taken to remedy the situation will be created with copies to go to the individual(s) refusing the work, the employer and the Joint Health and Safety Committee and union representative where applicable.
4. If an employee is unsatisfied with the resolution and continues to refuse the work, management must contact one of the following based upon the employee's province of employment:
 - a) Ontario: A Ministry of Labour (MOL) inspector
 - b) Alberta: A government Occupational Health and Safety Officer.
 - c) British Columbia: Workers' Compensation Board.
5. While awaiting the arrival and findings of the government and/or inspector/officer, management may assign other reasonable work to the employee(s) who has/have refused work.
6. Management may ask another employee to perform the refused work while waiting for the inspector to investigate.
7. Where a second employee is asked to perform work that has been refused the second employee must be informed of the initial work refusal and the reasons for the refusal. This information must be provided in the presence of a union representative (where applicable), or a health and safety representative. The second employee also has the right to refuse work.
8. In Alberta and Ontario, the inspector will investigate with the employer, the employee and a representative of the Joint Health and Safety Committee to determine if the work is either safe or unsafe and presents a danger to the health and safety of the employee.
9. The findings of the investigation must be provided in writing to the employee, management, and the Joint Health and Safety Committee representative. If the work is determined to be safe, the employee shall be expected to return to work.
10. Employees in Alberta who are not satisfied with the inspector's report may appeal the report within 30 days to request a review by the Occupational Health and Safety Council.

Compensation

- Employees who refuse work and are given alternate work until a resolution is found will be paid at a wage no less than their regular rate of pay.
- A person acting as a worker representative during a work refusal is paid at either the regular or the premium rate, whichever is applicable.
- The employer is not required to continue payment if the refused work has received a final ruling that the work is safe by a government official and/or agency.

The employer shall not penalize, dismiss, discipline, suspend or threaten to do any of these things to an employee who has obeyed the law, and regulations of the OHSA of their respective province. Employees will not be disciplined for refusing to work if they have a reasonable belief that the work is unsafe or could endanger themselves or others. If a work refusal was made in bad faith, or if the employee continues to refuse the work after a final decision that the work does not pose a threat, the employer may elect to utilize disciplinary action(s) up to and including termination of employment with cause.