

Health and Safety Legislation in Canada

Health and Safety Legislation in Canada - Right to Refuse

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Who can refuse work?

All workers have the right to refuse work if they have reason to believe the work is unsafe or dangerous to themselves or others. It's important to acknowledge that to refuse unsafe work, the employer, or someone acting on behalf of the employer, must ask the worker to do something that the worker believe is an immediate danger to their or a co-worker's health and safety. The worker must also be present in the workplace and be familiar with the hazard(s).

The right to refuse is normally used when the [other rights](#), such as right to participate and the right to know have failed to ensure adequate health and safety.

Exercising the right to refuse unsafe or dangerous work must be used for serious and imminent hazards and should not be used as a method of solving routine workplace problems. Other [hazard reporting](#) processes are in place that should be considered first. When ever possible, speak with a supervisor, health and safety committee or representative, employer, or union (if present) before refusing to work.

Can every worker exercise their right to refuse?

There may be some situations where the right to refuse work is limited. If not doing the task puts the life, health, or safety of another person directly in danger, or if the danger is a normal condition of employment, the worker may not be able to refuse work. For example, an on-duty firefighter cannot refuse to respond to a building on fire.

What type of work can I refuse?

Any worker has the right to refuse unsafe or dangerous work as long as they have “reasonable cause” to believe that the work presents an immediate, imminent, or serious threat to the health or safety of themselves or another person.

Generally speaking, unsafe or dangerous work can include working with or near equipment or machinery, the physical condition of the workplace, or not having the appropriate training or qualifications to perform the work safely. It may also include exposure to workplace violence that may endanger a worker.

What is "reasonable cause"?

The legislation about the right to refuse usually refers to “reasonable grounds to believe” or “reasonable cause to believe”.

“Reasonable grounds” or “reasonable cause” means that the worker truly believes that the work will cause themselves, or someone else, harm. This belief is more than having a hunch or suspicion, it is honestly believing that an event is possible or likely to occur. There must be a true belief that if the worker is to do the task, there would be a serious and immediate threat to themselves or others.

Reasonable grounds would include any dangerous act that is not a normal condition of employment that the worker has been asked to do.

What does the work refusal process look like?

The process to use to resolve a work refusal varies slightly from one jurisdiction to another. The following describes the general steps. Always consult the legislation that applies in your situation, and with your jurisdiction for complete information.

Generally speaking, the worker must immediately report to the employer (or person acting on behalf of the employer, such as their supervisor) that they are refusing to work when the concern about dangerous work arises. The worker must state why they believe the situation is unsafe. For this discussion, the term employer will include supervisors and management.

After a worker refuses the unsafe work, the refusal process will follow these steps:

If the employer **agrees**

The employer takes corrective action and when the corrections are completed, the worker returns to work.

If the employer **disagrees**

The employer provides the worker the reason why they disagree with the work refusal. Some jurisdictions require a written explanation that describes why the employer disagrees.

If the worker agrees with the employer's explanation and reasoning, they will return to work.

Involvement of Committee

Most jurisdictions require that a health and safety committee or representative be called to help investigate the work refusal at this step, along with the employer and the original worker who refused the work.

The employer may again opt to agree or disagree that the health or safety of a worker is endangered.

Calling an inspector

If agreement cannot be reached, it becomes necessary to notify an inspector from your local [occupational health and safety jurisdiction](#).

NOTE: The employer may assign reasonable alternative work to the worker during this time.

NOTE: If the worker is a member of a union, how work refusals are dealt with may be covered under the collective agreement. There may be an option to pursue the refusal under the collective agreement or under the OHS legislation.

What happens when an inspector is notified?

The inspector will investigate the refusal and consult with the worker refusing the work, the health and safety committee member or representative, and the employer. The inspector will make the decision about any corrective actions and issue these directions to the employer, if required.

The worker returns to that task after the corrective actions are implemented, or after the inspector deems the activity is safe. The inspector may explain their findings to both the employer and worker.

There may be an appeal process in the event the worker or employer disagree with the inspector's findings.

Can the employer assign someone else to do the work after a worker has refused?

Yes, but under specific conditions. While waiting for the investigation and decision of an inspector, another worker can be assigned that task as long as the new worker has been advised of the first work refusal and the reasons why it was refused.

Can the worker get in trouble for refusing work?

No. It is against the law for an employer to punish, or threaten to punish, a worker for exercising their rights under the Act, or complying with the Act and Regulations of their jurisdiction.

Some legislation, for example the Canada Labour Code, allows employers to take disciplinary action against a worker who abuses their right to refuse dangerous work. This action may only be done after all investigations and appeals have been completed. The worker must be able to prove that they exercised their right because of reasonable grounds to believe that completing the work would be a danger.

What if my concern is not immediately dangerous?

If the hazard, condition, or activity is not reasonably expected to be an imminent or serious threat to the health or safety of a worker, then the right to refuse may not be appropriate.

Legislation requires workers to report any unsafe conditions or hazards to their supervisor or employer. If a worker believes that there is a hazard in the workplace that is unsafe but there is not an immediate danger, they must report it to the employer, supervisor, or health and safety committee or representative.

The employer is responsible for investigating the concern. If the concern is not addressed by the employer, you should bring the concern to the health and safety committee or representative if present in your workplace.

If there is no health and safety committee or representative, or the worker is not satisfied with the employer's reply, the worker can contact their local [Government Department Responsible for OHS](#). Many of these agencies have complaint forms that a worker can fill out online, or they can call their contact centres to speak with someone directly regarding the concern.

Where can I find more information?

Each jurisdiction's work refusal process is different. Always contact the jurisdiction or consult the documents listed below.

Right to Refuse in Canada	
Canada	Right to refuse dangerous work . Employment and Social Development Canada
British Columbia	Refusing unsafe work . WorkSafe BC
Alberta	Refuse dangerous work
Saskatchewan	Duties and Rights of Workers
Manitoba	FAQs: Right to Refuse Dangerous Work
Ontario	Part V: Right to refuse or to stop work where health and safety in danger
Quebec	Right to refuse to perform a task. CNESST
New Brunswick	Your Rights. WorkSafe NB

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