

At times, an employee may be called on to do a job that they believe is unduly dangerous. In this situation, the employee has the right to refuse the work in the interest of health and safety.

When Can Work be Refused

Work can be refused under four conditions:

Condition 1: The Employee Sincerely Believes There's a Danger. Any worker can refuse work if they honestly believe that it would pose a danger to their own or another person's health and safety.

Condition 2: The Employee's Belief Is Reasonable. The health and safety concern must be "reasonable." In other words, the hazard must be one that an average, everyday worker would consider dangerous. For example, being asked to operate a machine with a broken safety device or missing guard.

Condition 3: The Danger Is Unusual. Work refusals don't apply to dangers that are a normal part of a job. For example, a firefighter can't refuse to enter a burning building because they're afraid of getting burned. But they could refuse to drive a fire truck with defective brakes.

Condition 4: The Refusal Doesn't Endanger Anybody Else. Refusals aren't allowed if they endanger the health and safety of another person. For example, a worker serving as an attendant outside a confined space that co-workers have entered (and where nobody is available to take his place) can't refuse work if it would mean deserting his post.

What Happens Next: How the Refusal Process Works

An employee can't simply put down their tools and go home; they must follow the proper refusal procedures:

Stage 1: Notification First, an employee must immediately notify their supervisor or another company official that they're making a refusal and explain why they think the work is dangerous.

Stage 2: First Investigation The supervisor may be able to fix the problem right away so that everyone can get back to work. If that's not possible, the supervisor or somebody else will investigate the refusal in the presence of another worker.

Stage 3: Notification of Investigation Findings and/or Second Investigation After the investigation ends, the supervisor or a company official will notify the employee of findings.

There are 2 basic possibilities:

- There's no danger and it's safe to return to work; or

- There was a danger but it's been or will be corrected. If the worker is satisfied with those findings, they can end the refusal and return to work (if corrective actions are needed, they can return once those have been taken).

NOTE: if the worker decides to continue the refusal the OHS Committee will convene an emergency meeting to investigate the refusal, meet and vote to determine if the worker has reasonable grounds to refuse the work. If the concern cannot be resolved within the workplace, an occupational health officer at the Occupational Health and Safety Division should be contacted.

Stage 4: Government OHS Official Investigation If the initial investigation results in no-danger finding or corrective actions aren't enough to end the worker's health and safety fears, they can take things to the next stage by notifying a government OHS official of the refusal. Upon getting this notification, an official will then come to the workplace to conduct an investigation to determine if there's a danger and, if so, what the company must do to fix it.

Final Point

The OHS investigation is the end of the road for most refusals. But, if the employee is still unhappy and concerned about safety, they may continue the refusal by appealing the OHS investigation. At that point, the refusal becomes a legal case that the lawyers must handle.

From Division 5 in the Saskatchewan Employment Act Right to Refuse (See Act, Section 3-31) Note: Workers can't refuse as a group. The right to refuse is an individual workers' right. Under the Act, workers who use their right to refuse are legally protected. That is, an employer can't fire or discipline a worker who refuses to do unusually dangerous work. A worker should never do work that they aren't trained, equipped or experienced to do. Workers should follow these steps to refuse work they believe is unusually dangerous.

1. Tell their employer/supervisor that they are refusing the specific job or task because of a health or safety concern.
2. The employer/supervisor can re-assign the worker to a different job or task until the work refusal is resolved. The worker should not leave the worksite without the employer's permission.
3. If the worker can't resolve the concern with the employer/supervisor, they should contact their OHC or representative.
4. If the concern can't be resolved within the workplace, contact an Occupational Health and Safety Officer at the OHS Division at 1-800-567-7233 and ask for the Duty Officer.

Tool Box Talk

When accidents and incidents happen on the jobsite, we are always quick to point the finger at lack of training, not following practices or procedures, or even improper supervision. The idea that the hazards and dangers associated with the job were not properly communicated to all of the workers is often missed.

Tool Box Talks can go by many names, and although formats may vary, these meetings all serve one purpose: to inform employees and contract workers. Tool Box Talks are short, informal, meetings between management and the workers on a jobsite. The goal of these meetings is to reinforce current safe job procedures, inform workers of new and/or relevant procedures, review recent safety violations/incidents, and ensure workers are up-to-date on the information required to complete their work safely.

Always use a Tool Box Talk form to record the meeting topic, date, who was in attendance, and any follow-up actions to be taken. Not only do these forms help with consistency of record keeping, but they also ensure that nothing is missed. At the end of the meeting have management sign off on the form.

One of the most important aspects of a Tool Box Talk is giving workers an opportunity to voice their concerns and ask questions. All employees have a right to participate in health and safety as it relates to their work and it is the supervisor or manager's responsibility to create an environment for them to do so. Once the meeting is over, and the form is filled out, it should be filed with other documented Tool Box Talks.

Remember that Tool Box Talks are short and informal, they are not meant to be intimidating. Use the opportunity to have fun and stay on top of what is necessary to keep safety culture a strong part of the business.

For a full listing of Tool Box Talk topics, visit: www.scsaonline.ca/resources/tool-box-talks

For a copy of the Tool Box Talk form, visit: www.scsaonline.ca/pdf/Tool_Box_Meeting.pdf

About the Saskatchewan Construction Safety Association

The Saskatchewan Construction Safety Association (SCSA) is an industry-funded, membership-based, nonprofit organization that provides cost-effective, accessible safety training and advice to employers and employees in the construction industry throughout the province to reduce the human and financial losses associated with injuries. Registered March 20, 1995, the SCSA is, and has been since inception, committed to injury prevention. Serving almost 10,000 member companies with business offices in both Regina and Saskatoon, the major business units of the association are Advisory Services, Business Development, Corporate Services, Program Services and Training. The mission of the SCSA is constructing safety leadership in Saskatchewan and the vision is to create the safest construction environment in Canada.