

# Tool Box Talk

## Work Refusal

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 is 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 a 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 coworkers have entered (and where nobody is available to take their place) can't refuse work if it would mean deserting their 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.** If the supervisor can fix the problem right away, 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 the findings. There are two 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 a 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 an Occupational Health and Safety officer at the OHS division (call 1-800-567-7233 and ask for the duty officer). Upon notification, an official will then come to the workplace and investigate 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. However, 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.

**Legislation** (See Division 5 in the *Saskatchewan Employment Act*, Right to Refuse, Section 3-31)

Note: Workers can't refuse as a group. The right to refuse is an individual worker's right. Under the Act, workers who use their right to refuse are legally protected. 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.