

Key Steps in a Work Refusal-Federal

[Canada Labour Code s.122,128,129,146,147]

1. danger is any hazard, condition or activity that could reasonably be expected to be an imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered.
2. employees cannot refuse if:
 - the refusal directly endangers the life, health or safety of another person
 - the danger is a normal condition of employment
3. if refusal language exists in a collective agreement the employee must inform the employer whether they are refusing under the agreement or *Code*.
4. or employee health and safety representative.
5. employer can provide additional information and report can be revised if needed.
6. employee can be assigned reasonable alternative work. No other employee can be assigned unless they are qualified, advised of the work refusal and employer is satisfied work is not dangerous.
7. or Minister designate, most likely a health and safety officer
8. matter can be dealt with under Part I or III of the Code, or under another Act of Parliament, the matter is trivial or vexatious, or the continued refusal is in bad faith.

Reporting a work refusal

employee has reasonable cause to believe work poses a danger^{1,2}

employee immediately notifies the employer they are refusing work³

Employer Investigation

employer investigates immediately in presence of refusing employee and prepares a written report

Employer takes protective action

employer agrees danger exists and takes immediate action to protect employees

employer informs work place committee⁴

employee agrees and returns to work

Continued refusal-internal investigation

employer does not agree danger exists

employee disagrees and continues to refuse work

employee immediately notifies employer and employee member of the work place committee⁴ who then investigate in the presence of employee

written report, including recommendations, submitted to employer⁵

Employer takes protective action

employer takes immediate action to protect employees

employer informs work place committee⁴

employee agrees and returns to work

Employer decision

employer decides employee cannot refuse work² or no danger exists and notifies employee in writing

Continued refusal- Minister involvement

employee disagrees and continues to refuse work

employer notifies Minister and work place committee⁴ and provides reports to Minister⁶

Employee returns to work

employee agrees and returns to work

No investigation required

Minister⁷ decides no investigation required⁸

Minister⁷ informs employee and employer who then informs work place committee⁴ in writing

employee returns to work

employee has 30 days to seek a judicial review

Minister investigation

Minister⁷ investigates in presence of employer, employee and employee member of work place committee⁴

Minister⁷ directs employer to take actions to protect employees in writing

employer, employee or union has 30 days to appeal

Minister⁷ decides no danger exists or the employee cannot refuse work (issues decision in writing)

employee has 10 days to appeal

No reprisals

It is against the law for employers to discipline or threaten any employee for performing duties or acting upon their rights under *the Code*.