

## BPS FACT SHEET

# The Right to Refuse Unsafe Work

The *Ontario Health and Safety Act* (OHSA) gives all workers the right to refuse to perform unsafe work, and/or to work in an unsafe work environment.

For those AMAPCEO members who are still required to report to a workplace during the COVID-19 outbreak, an unsafe work environment could include:

- Workstations that are less than two meters apart
- A workplace layout that does not allow for adequate social distancing between workers, i.e., narrow hallways, and elevators
- Inadequate cleaning and sanitizing of shared workstations and equipment, common spaces and door handles, push plates, railings, elevators, etc.
- Inadequate provision of hand sanitizer, anti-bacterial wipes, etc.

If you are facing these or any other circumstances that you feel constitute an unsafe work environment, you should report them immediately to your manager. If steps are not taken to satisfactorily address your concerns, you may consider exercising your right to refuse unsafe work.

The OHSA includes specific steps that a worker must take in an unsafe work refusal.

### First stage

Once a worker feels that their work or work environment is unsafe, they must report their refusal to their supervisor and explain the circumstances for their refusal. The worker should also advise an [AMAPCEO Health & Safety Representative](#) or [Workplace Representative](#).

The supervisor must investigate the situation immediately in the presence of the worker and a Health & Safety Representative or a Workplace Representative.

The refusing worker must remain in a safe place that is reasonably close to their workstation and remain available to the supervisor for purposes of the investigation.

If the situation is resolved at this stage, the worker will return to work.

## **Second stage**

If the worker is not satisfied with the steps taken by the Employer, the worker can continue to refuse to perform the work. The Employer must contact a Ministry of Labour, Training and Skills Development inspector to conduct an investigation.

While the inspector's investigation is underway, the worker must remain in a safe place reasonably close to their workstation to be available to the inspector. Alternatively, the Employer may assign the worker some other safe work, or give other directions to the worker, while the investigation is underway.

The inspector must make a written decision regarding whether the work or work environment is unsafe. If the inspector decides the work is unsafe, they will issue an order to the Employer to remedy the situation. If the inspector decides that the work is safe, the worker is expected to return to their work.

## **Another worker can be asked to do the work**

The Employer can ask another worker to do the refused work while the inspector conducts their investigation. However, they must tell the second worker that the work was refused and the reasons for the refusal. This must be done in the presence of a worker member of the Joint Health & Safety Committee or a Workplace Representative.

## **No discipline for refusing unsafe work**

The OHS Act strictly prohibits the Employer from disciplining in any way a worker who has relied on their rights under the Act to refuse unsafe work.

## **The role of a certified member of a Joint Health and Safety Committee**

Under certain circumstances, a member of a Joint Health & Safety Committee who has received certification training can order a stop work direction.

A certified member who believes that “dangerous circumstances” exist may request that the employer investigate. Once the investigation is complete, if the certified member believes that the dangerous circumstances still exist, they may ask a second certified member to investigate. One of the certified members must represent workers and the other must represent the Employer.

If both certified members believe that the dangerous circumstances still exist, they can direct the Employer to stop the work or stop the use of any part of the workplace. The Employer must immediately comply with this direction. Only the certified members or a Ministry of Labour, Training and Skills Development inspector can cancel the direction.

If the certified members do not agree that dangerous circumstances exist, either one can request that a Ministry inspector investigate.

### **Limitation of the right to refuse unsafe work**

The right to refuse work does not apply to specified health care workers, including but not limited to the following:

- A laboratory operated by the Crown
- A hospital
- A residential group home
- An ambulance service

For more details regarding which workers are exempt from these provisions, please see [OHSA Article 44\(2\)\(b\)](#).

### **Know your rights**

The [OHSA provides workers with the right to refuse unsafe work](#).

Your Collective Agreement imposes a duty on the Employer to make reasonable provisions for the health and safety of employees. Health & Safety Representatives with concerns about the Employer's compliance with the Collective Agreement should seek assistance from an [AMAPCEO Workplace Representative](#).