

Grounds for Refusing Dangerous Work – Know The Laws Of Your Province



The right to refuse dangerous work is an important safety protection for employees. But it creates a dilemma for employers. Disciplining employees for properly exercising their refusal rights is illegal; but allowing employees to abuse their refusal rights, e.g., as an excuse to avoid an unpleasant but not unsafe task, can grind production to a halt. To resolve this dilemma employers must be able to tell the difference between a proper and improper refusal. The starting point is knowing whether the employee has proper grounds for refusing. That, in turn, depends on what your province's OHS laws say. Here's a rundown of the work refusal grounds of each jurisdiction.

Grounds for Refusing Dangerous Work Under OHS Laws Across Canada

FEDERAL: An employee may refuse to use or operate a machine or thing, to work in a place or perform an activity, if the employee while at work has reasonable cause to believe that: (a) the use or operation of the machine or thing constitutes a danger to the employee or another employee; (b) a condition exists in the place that constitutes a danger to the employee; or (c) the performance of the activity constitutes a danger to the employee or another employee;

EXCEPTION: An employee may not refuse to use or operate a machine or thing, to work in a place or to perform an activity if: (a) the refusal puts the life, health or safety of another person directly in danger; or (b) the danger is a normal condition of employment; Special rules apply to refusals aboard ships and aircraft [*Canada Labour Code*, Sec. 128(1)].

ALBERTA: A worker may refuse to work or do particular work at a work site if the worker believes on reasonable grounds that there's a dangerous condition at the work site or that the work constitutes a danger to the health and safety of the worker, another worker or another person [*OHS Act*, Sec. 31(1)].

BRITISH COLUMBIA: A person must not carry out or cause to be carried out any work process or operate or cause to be operated any tool, appliance or equipment if that person has reasonable cause to believe that to do so would create an undue hazard to the health and safety of any person [*OHS Regs.*, Sec. 3.12(1)].

MANITOBA: A worker may refuse to work or do particular work at a workplace if he/she believes on reasonable grounds that the work constitutes a danger to his/her safety or health or to the safety or health of another worker or another person [*WSH Act*, Sec. 43(1)].

NEW BRUNSWICK: An employee may refuse to do any act where he has reasonable grounds for believing that the act is likely to endanger his health or safety or the health or safety of any other employee [*OHS Act*, Sec. 19].

NEWFOUNDLAND: A worker may refuse to do work that the worker has reasonable grounds to believe is dangerous to his/her health or safety, or the health and safety of another person at the workplace [*OHS Act*, Sec. 45(1)].

NOVA SCOTIA: Any employee may refuse to do any act at the employee's place of employment where the employee has reasonable grounds for believing that the act is likely to endanger the employee's health or safety or the health or safety of any other person; EXCEPTION: An employee may not refuse to use or operate a machine or thing or to work in a place where: (a) the refusal puts the life, health or safety of another person directly in danger; or (b) the danger is inherent in the employee's work [*OHS Act*, Sec. 43(1) + (9)].

ONTARIO: A worker may refuse to work or do particular work where he/she has reason to believe that: (a) any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself/herself or another worker; (b) the physical condition of the workplace or the part thereof in which he/she works or is to work is likely to endanger himself/herself; (b.1) workplace violence is likely to endanger himself/herself; or (c) any equipment, machine, device or thing he/she is to use or operate or the physical condition of the workplace or the part thereof in which he/she works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself/herself or another worker; EXCEPTIONS: Refusals don't apply to workers: (a) when a circumstance described above is inherent in the worker's work or is a normal condition of the worker's employment; or (b) the worker's refusal to work would directly endanger the life, health or safety of another person; Nor do refusal rights apply to workers in the occupations listed in Sec. 43(2) of the Act [*OHS Act*, Sec. 43(1) to (3)].

PRINCE EDWARD ISLAND: A worker may refuse to do an act at the worker's workplace where the worker has reasonable grounds for believing that the act is likely to endanger the worker's occupational health or safety or the occupational health and safety of another worker [*OHS Act*, Sec. 28(1)].

QUÉBEC: A worker has a right to refuse to perform particular work if he has reasonable grounds to believe that the performance of that work would expose him to danger to his health, safety or physical well-being, or would expose another person to a similar danger; EXCEPTION: Refusal not allowed if it puts the life, health, safety or physical well-being of another person in immediate danger or if the conditions under which the work is to be performed are ordinary conditions in his kind of work [*OHS Act respecting*, Secs. 12 + 13].

SASKATCHEWAN: A worker may refuse to perform any particular act or series of acts at a place of employment if the worker has reasonable grounds to believe that the act or series of acts is **unusually** dangerous to the worker's health or safety or the health or safety [*Sask. Emp. Act*, Sec. 3-31].

NORTHWEST TERRITORIES & NUNAVUT: A worker may refuse to do any work where the worker has reason to believe that: (a) there exists an **unusual** danger, (i.e., one not to normal to the job) to the health or safety of the worker; (b) the carrying out of the work is likely to cause to exist an unusual danger to the health or safety of the worker or of any other person; or (c) the operation of any tool, appliance, machine, device or thing is likely to cause to exist an unusual danger to the health or safety of the worker or of any other person [Safety Act, Sec. 13(2)].

YUKON: A worker may refuse to work or do particular work if the worker has reason to believe that: (a) the use or operation of a machine, device, or thing constitutes an undue hazard to that worker or any other person; or (b) a condition exists in the workplace that constitutes an undue hazard; EXCEPTION: No worker may exercise their right under subsection (1) or (3) if their refusal to perform the work puts the life, health, safety, or physical well-being of another person in immediate danger or if the conditions under which the work is to be performed are ordinary conditions in that kind of work [OHS Act, Sec. 15(1) + (5)].