

Is “Personal Freedom” Grounds for Not Complying with a Mandatory Vaccination Policy? – Ask The Expert



QUESTION

One of our workers is refusing to obey our organization’s mandatory vaccination policy out of “personal principles.” She insists that the vaccine is unsafe and is threatening to sue us for discrimination and violating her freedoms if we discipline her for refusing. Does she have a valid legal case?

ANSWER

Absolutely not—at least based on the facts you describe.

EXPLANATION

Regrettably, the situation you’re dealing with is typical of the vaccine backlash taking place in many parts of the country. It’s true that human rights laws require employers to make reasonable accommodations to their mandatory vaccination policies up to the point of undue hardship. However, accommodations are due only to workers the law covers, i.e., those who can’t get vaccinated due to a disability, legitimate religious and perhaps creed-based objection.

Human rights commissions across Canada have made it clear that a personal opinion or belief does **not** trigger the right to accommodations. This is especially true in the vaccine context to the extent personal opinions about the vaccine’s safety fly in the face of the overwhelming scientific evidence showing that the vaccine is both safe and effective.

Bottom Line: Mandatory vaccination policies remain controversial. But to the extent the policy is enforceable (i.e., serves a compelling safety interest, is properly drafted and implemented and no broader than necessary), workers that the policy covers who can get vaccinated must get vaccinated or face disciplinary consequences.