Scorecard: Work Refusals for Fear of Getting an Infectious Illness



SCORECARD: INFECTIOUS ILLNESS WORK REFUSAL CASES

Case	Grounds For Refusing	Outcome	Explanation
Caverly v. Canada (HRSD)	HRSD worker fears getting SARS from immigrants	Refusal Invalid	Worker not exposed to infection risk, but HRSD should have done a better job of addressing concerns.
Chapman v. Canada (Customs and Revenue Agency)	Customs agent fears getting SARS from new Asian immigrants	Refusal Invalid	Custom agents don't encounter individuals with SARS; even if they did, they can't get it from proximity to infected individuals.
Cole v. Air Canada	Air Canada ticket agents fear getting SARS from Asian passengers	Refusal Invalid	Medical evidence shows SARS isn't transmitted by proximity to infected individuals; airline adequately addressed SARS concerns.
Hogue-Burzynski v. VIA Rail Canada	Railroad crew members fear getting intestinal virus from sick passengers on previous trip	Refusal Invalid	Railway took steps to minimize risk and workers had to accept that risk as part of their job.
Swan River Valley Hospital (Re)	Hospital workers fear getting Hepatitis B	Refusal Invalid	Not reasonable to require hospital to vaccinate all workers, especially when they didn't demand vaccination in collective bargaining.
Walton v. Treasury Board	Prison guard fears getting Hepatitis B from inmates	Refusal Valid	Fear of being doused with waste bucket is reasonable given that Hepatitis B is spread via contact with feces, urine, and semen.
Unreported	Québec paramedics fear getting Ebola from patients	Refusal Valid	Employer didn't have ample infection control measures in place.

Case	Grounds For Refusing	Outcome	Explanation
Unreported	Ontario paramedics fear getting Ebola from patients	Refusal Invalid	Risk of paramedics actually being exposed only hypothetical.

The OHS laws clearly allow employees to refuse work when they have “reasonable” cause to fear serious injury or illness to themselves and/or others. So, don’t be surprised if one of your employees engages in a work refusal out of fear of catching coronavirus from a co-worker, client or member of the public. While it might seem overly dramatic, such a refusal may be justified, especially if the individual to which the employee is exposed has recently traveled to Wuhan, China, or another high-risk area. Although no coronavirus refusal cases have yet been reported, there have been at least 8 work refusal cases involving other infectious illnesses from previous outbreaks, including SARS, Ebola, and Hepatitis B. The Scorecard below summarizes how each of these cases turned out.