

Work Refusal Information

The Workers Compensation Board urges all employers and workers to follow the recommendations of the PEI Chief Public Health Office during the COVID-19 crisis.

Section 28 of the Prince Edward Island *Occupational Health and Safety Act*, provides workers with the right to refuse work that they reasonably believe will cause a danger to their health and safety, or that of another person, should they perform the task.

Employers must be aware of their work refusal obligations and ensure such refusals are appropriately handled. Below is a summary of the refusal to work process; however, workplaces with collective agreements in place may have additional steps or requirements.

What are the steps involved in a work refusal process?

Step 1

Workers must report the work refusal to their supervisor and explain why they believe the work is dangerous. The supervisor and worker must work together to assess the risk and resolve the concern. If unsure, it is often helpful to engage human resources or other technical experts during this stage. The worker is required to remain at the workplace during the work refusal process.

Step 2

If the supervisor and the worker are unable to agree on a resolution, the worker must refer the matter to the Joint Occupational Health and Safety Committee or the Safety Representative to help assess the situation and attempt to resolve the issue.

Step 3

If the situation cannot be resolved and the worker still feels the work is dangerous for them to perform, Occupational Health & Safety (OHS) can be contacted to investigate the work refusal. OHS considers the worker's right to refuse unsafe work a high priority and every attempt is made to respond quickly.

To report a work refusal during regular business hours (8:00am-4:30pm, Monday-Friday) please call (902) 368-5680 or email ohs@wcb.pe.ca.

To report a work refusal outside of regular business hours please call the OHS Emergency Line at (902) 628-7513.

Are there exceptions to the right to refuse unsafe work?

Yes - there are generally two exceptions to the right to refuse unsafe work.

First, dangers or hazards which are inherent to the worker's work or which are normal conditions of the worker's employment will generally not give rise to a right of refusal.

Second, when the refusal to work would directly endanger the life, health or safety of another person, the worker is usually prohibited from exercising their right to refuse unsafe work. These two exceptions could include, for example, police officers, firefighters and health care workers with regards to certain dangers or certain situations.

Can a worker refuse work due to a COVID-19 concern?

When addressing a work refusal related to the COVID-19 pandemic, it is important to recognize that every refusal is assessed based on circumstances specific to the worker and their workplace.

A worker can refuse work if a reasonable assessment of the risk suggests there is an immediate or imminent threat to their safety. A pandemic alone is not reason enough to refuse work.

Can the worker leave the workplace during a work refusal?

During the work refusal process, the worker must remain available at the workplace during the worker's normal working hours and may be assigned to alternative duties not involving the perceived hazard.

Do workers continue to get paid during a work refusal?

A worker who exercises their right to refuse work must continue to be paid. If an OHS Officer makes a decision that the work is not likely to endanger the worker, and the worker continues to refuse to perform the work, the employer is no longer required to pay the worker.

Can another worker be brought in to do the work?

It is possible for work to be safe for one person to perform, but not another. This may be due to an individual's training, medical conditions, etc. If an alternate worker is brought in to do the work of the refusing worker, the alternate worker must be informed of the work refusal, the reasons for it, and why the employer feels the work can continue safely. Where possible, an arrangement should be made for the refusing worker and the alternate worker to communicate to ensure the situation is clearly understood by all parties.