

Ask the Expert: Is Fear of a Violent Co-Worker Grounds for a Work Refusal?



QUESTION

Can a worker refuse to work with a co-worker because he's afraid the co-worker will attack him'

ANSWER

Yes, as long as the fear is reasonable.

EXPLANATION

Courts, arbitrators and OHS tribunals recognize that fear of workplace violence can be a legitimate reason for bringing a work refusal. The question then becomes whether the refusing worker's fear is reasonable and the co-worker poses a reasonable danger. That, in turn, depends on factors, such as:

- Whether the co-worker has ever attacked anyone either at or outside the workplace;
- Whether the co-worker has ever threatened the refusing worker;
- The size and sex of each worker;

- Whether the work is done in an isolated or other location in which the worker would be particularly vulnerable; and
- Any other indications suggesting that the co-worker poses a genuine threat of violence.

The key thing to remember is that if the worker does initiate a refusal, you must investigate and not make a snap judgment on the spot about whether a real danger exists.