

Can Employer Require Workers to Tuck in Their Shirts?



SITUATION

An employer operating a smelter and the union jointly agree to a new work shirt for workers to wear. The collective agreement established a JHSC with several sub-committees. The PPE sub-committee has equal representation from workers and management, and makes decisions regarding PPE appropriate for the workplace. But the sub-committee's members reach an impasse as to whether workers should be required to tuck in the shirt. Workers at other work locations operated by the employer are required to tuck in their shirts. So the employer unilaterally imposes a safety rule requiring all workers at this location to tuck in their work shirts, too. Relying on the results of several risk assessments, the employer says the tuck in rule is necessary to protect workers from risk of exposure to air contaminants, splashing molten metal, entanglement in equipment and injury from electric spark flashes. In addition, various safety regulations support the requirement for close fitting clothing to protect workers from such hazards. The employer offers the alternative of coveralls for those who don't want to tuck in their shirts. Still, the union files a grievance, arguing the employer can't unilaterally require workers to tuck in their shirts.

QUESTION

Can the employer require workers to tuck in their work shirts'

- A. Yes, because there are safety hazards justifying the rule and the employer bears responsibility for worker safety.
- B. Yes, because the employer requires workers at its other work locations to tuck in their shirts.
- C. No, because the collective agreement delegates authority for PPE rules to the PPE sub-committee of the JHSC.
- D. No, because the union didn't agree to the safety rule.

ANSWER

A. Because safety hazards justify the rule and the employer has a legal responsibility to protect workers from such hazards, it can require workers to tuck in their shirts.

EXPLANATION

This hypothetical is based on a BC arbitration that upheld an employer's unilateral imposition of a safety rule requiring workers to tuck in their work shirts. The arbitrator noted that the employer had conducted risk assessments that identified several serious safety hazards justifying the rule in this type of work environment, including [entanglements in machinery](#) and burns. It also required workers to tuck in shirts at other work locations facing similar safety hazards. Additionally, the employer provided coveralls as an alternative to those who didn't want to tuck in their shirts. Finally, the arbitrator declared that the employer had the right and obligation under the OHS law to protect workers by imposing the safety rule, which was supported by various OHS regulations requiring workers' clothing to fit tightly about the body.

WHY THE WRONG ANSWERS ARE WRONG

B is wrong because the fact that workers in other locations operated by the employer also have to tuck in their shirts isn't sufficient to automatically justify the requirement in

every location. The unique risks and circumstances of each workplace must be considered in determining whether a safety rule is appropriate. Although the use in other similar locations can be instructive or helpful, it isn't determinative. In this case, however, the work sites and their attendant safety risks were very similar, so evidence that tucked in shirts were required in other locations is helpful, but by itself doesn't end the matter. The tuck in rule is ultimately justified by the safety hazards present in *this* workplace (a smelter), which the rule will address.

C is wrong because, despite the terms of the collective agreement, JHSCs and their sub-committees don't have authority under the OHS laws to impose or refuse to impose safety rules. The OHS laws give such committees the authority to make recommendations on safety issues but it's the employer who's ultimately obligated and authorized under the OHS law and the principles of due diligence to take action to address safety issues by implementing appropriate safety measures. Thus, even though the parties agreed in the collective agreement to create a JHSC with subcommittees and make decisions about various safety issues through those committees, when union and employer representatives on the committee can't agree, the employer must unilaterally act to protect workers from safety hazards. So, in this case, the employer had the responsibility to act when the JHSC couldn't reach a mutually agreeable resolution about whether workers should be required to tuck in their shirts for safety reasons.

Insider Says: For more information about JHSCs, visit the [Joint Health & Safety Committee Compliance Centre](#).

D is wrong because the union's disagreement with the rule and its refusal to reach an agreement via the PPE sub-committee doesn't absolve the employer of its responsibilities under the OHS laws to protect workers. Yes, workplace safety is a shared responsibility under the Internal Responsibility System. But, as discussed above, the employer is ultimately responsible for

the safety of workers under the OHS laws. Untucked shirts could make workers in this workplace vulnerable to specific safety hazards. Therefore, the OHS laws require the employer to take action to protect workers from those hazards. The union is free to grieve the rule and challenge its reasonableness and appropriateness, as it did here. However, the facts and circumstances support the unilateral imposition of the employer's tuck in rule.

SHOW YOUR LAWYER

Rio Tinto Alcan Inc. v. Unifor, Local 2301 (Change to Personal Protective Equipment Standards Grievance), [2016] B.C.C.A.A.A. No. 52, June 3, 2016