

Can Workers Refuse to Wear PPE Required by OHS Laws?



Occupational health and safety (OHS) laws require workers to wear personal protective equipment (PPE) to guard against the hazards they face on the job. However, there may be situations in which wearing required PPE actually increases or subjects the worker to new hazards. Here's a scenario explaining the rules governing such situations in the context of an OHS work refusal.

Situation

A stevedore working in a ship's hold placing cutting boards under the wing of the hatch isn't wearing a hardhat. When his supervisor orders him to don his hardhat, the stevedore complains that the hardhat will obstruct his view and increase his risk of getting jammed between or getting crushed by one of the paper rolls. The supervisor is unimpressed noting that wearing a hardhat in the hold is mandatory under company policy and OHS regulations. Rather than work with an obstructed view, the stevedore invokes his OHS right to refuse dangerous work.

Question

Does the stevedore have valid grounds for an OHS work refusal?

1. Yes, if his fears that wearing the hardhat will put him

- at greater risk is reasonable.
2. Yes, as long as his fears are sincere.
 3. No, because OHS laws require workers in a ship's hold to wear hardhats to prevent head injuries.
 4. No, because the company's safety policy requires workers to wear hardhats in a ship's hold.

Answer

1. **The stevedore's work refusal is valid to the extent that his fears of working with an obstructed view are reasonable.**

Explanation

This scenario is based on an actual federal case involving an appeal of an OHS investigating officer's finding that a refusal to work while wearing a hardhat was invalid because the refused PPE was required by OHS law. The court reversed the finding and rendered a ruling that illustrates two important points about OHS laws:

- OHS work refusals are justified when prompted by reasonable fears of danger; and
- Otherwise mandatory PPE and other protective equipment isn't required if using it would subject workers to greater danger.

Based on evidence suggesting that both of these things might be true, the court ordered a new investigation.

Why Wrong Answers Are Wrong

B is wrong because under OHS laws, a refusing worker's refusal must be not simply sincere but also reasonable. When investigating a work refusal, investigators must consider not the refusing worker's state of mind but the objective

circumstances and whether the fear that prompted the refusal would be reasonable to other workers. If the investigation determines that the work is safe and the fear is unreasonable, the company can order the refusing worker to return to work, subject to the worker's right of appeal.

C is wrong because OHS regulations do make exceptions for situations where wearing required PPE would increase or subject a worker to new dangers. The mandatory hardhat policy in this case made sense as a general rule given the head hazards contained inside the hold of a ship. However, it didn't account for specific types of work performed inside the hold in which wearing a hardhat might be more dangerous than not wearing it. Placing cutting boards to position rolls of paper in the hold might have been such an operation.

D is wrong for the same reasons that C is wrong. Although based on OHS requirements, the company policy of requiring hardhats at all times while working in a hold might have been too general given its failure to differentiate between the types of jobs actually performed inside the hold.

[Duplessis v. Canada \(Attorney General\)](#), 2006 FC 482 (CanLII)