

Compliance Safety Talk: Your Right to Refuse Dangerous Work



Here's a Safety Talk to give your workers explaining their OHS right to refuse dangerous work, including: i. When a refusal is justified; and ii. How the refusal process works.

WHAT'S AT STAKE'

You may be called on to do a job that you believe is unduly dangerous, such as working on a roof without fall protection or operating a machine with a broken safety device. In these situations, you have the right to refuse the work in the interest of health and safety. But you can also get into big trouble if you don't follow the rules. Here's what you need to know to properly exercise your refusal rights.

WHEN YOU CAN REFUSE WORK

You're allowed to refuse work under 4 conditions:

Condition 1. You Sincerely Believe There's a Danger

You can refuse work if you honestly believe that it would pose a danger to your own or another person's health and safety, like a co-worker. What you can't do is cry wolf and try to use your refusal rights to get out of a job you know isn't dangerous.

Condition 2. Your Belief Is Reasonable

Your health and safety concern must also be 'reasonable.' In other words, the hazard must be one that an average, everyday worker would consider dangerous. For example, a driver who genuinely believed his supervisor wanted to kill him lost his refusal case because there was no evidence that the supervisor actually was violent or posed any physical threat to the driver.

Condition 3. The Danger Is Unusual

Work refusals don't apply to dangers that are a normal part of a job. For example, a firefighter can't refuse to enter a burning building because she's afraid of getting burned. But she could refuse to drive a fire truck with defective brakes.

Condition 4. The Refusal Doesn't Endanger Anybody Else

Refusals aren't allowed if they endanger the health and safety of another person. For example, a worker serving as an attendant outside a confined space that co-workers have entered (and where nobody is available to take his place) can't refuse work if it would mean deserting his post.

WHAT HAPPENS NEXT: HOW THE REFUSAL PROCESS WORKS

You can't simply put down your tools and go home; you must follow the proper refusal procedures. Here's what you need to know about the refusal process.

Stage 1: Notification

First, you must immediately notify your supervisor or another company official that you're making a refusal and explain why you think the work is dangerous.

Stage 2: First Investigation

The supervisor may be able to fix the problem right on the spot so that you can end your refusal and get back to work. If

that's not possible, the supervisor or somebody else will investigate the refusal in the presence of another worker. You also have the right to be present during the investigation. If not, you must stay at or near your workstation in case the investigators need you. You get pay and benefits for your time. The company may also have the right to reassign you to comparable work while the refusal process unfolds.

Stage 3: Notification of Investigation Findings

After the investigation ends, the supervisor or a company official will notify you of its findings. There are 2 basic possibilities:

- There's no danger and it's safe for you to return to work; or
- There was a danger but it's been or will be corrected.

If you're satisfied with those findings, you can end your refusal and return to work (if corrective actions are needed, you can return once they're taken).

Stage 4: Government OHS Official Investigation

If the initial investigation no-danger finding or corrective actions aren't enough to end your health and safety fears, you can take things to the next stage by notifying a government OHS official of the refusal. Upon getting this notification, an official will then come to the workplace and do his/her own investigation to determine if there's a danger and, if so, what the company must do to fix it. The investigator will let you know one way or the other.

FINAL POINT

The OHS investigation is the end of the road for most refusals. But, if you're still unhappy and concerned about safety, you can continue the refusal by appealing to a court or special OHS tribunal. At that point, the refusal becomes a legal case that the lawyers must handle.

QUIZ

1. The first thing you should you do if you decide to refuse dangerous work is immediately notify your supervisor
[] True
[] False
2. Workers have valid grounds to refuse work as long as they **sincerely** believe they're in danger even if those fears are totally unreasonable.
[] True
[] False
3. A worker must end a refusal and return immediately to work if the initial investigation concludes that there's no danger.
[] True
[] False
4. An airline pilot and co-pilot can engage in a work refusal mid-flight if they fear that the cockpit contains toxic gases.
[] True
[] False
5. Workers who refuse work are entitled to full pay and benefits for their time during the refusal process.
[] True
[] False

WHAT WOULD YOU DO'

Your supervisor asks you to go inside a machine to clear a jam while it's still running. You ask the supervisor to follow the normal lockout and de-energization procedure but he refuses because the schedule is tight and there's no time. What would you do'

BEFORE THE TALK

Before the Meeting Preparation Tips

- Pass around the attendance sheets.

Be prepared to discuss:

- What a dangerous work refusal is.
- When workers are allowed to exercise their work refusal rights.
- How the refusal investigation and resolution process works.

Other:

- Describe scenarios in which workers might exercise their refusal rights as a safety measure.
- Provide examples of improper, abusive or frivolous refusals.

AFTER THE TALK

PROVIDED FOLLOW-UP TO WORKERS THAT DID POORLY ON THE QUIZ

NAME: " " " " " " ' _____

DATE: _____

OBSERVED WORKERS

TASK(S): " " " " _____

DATE: _____

REFRESHER TRAINING

TOPIC(S): " " " " " " ' _____

DATE: _____

OTHER (DESCRIBE): " " " ' _____

MEETING DATE: _____

LOCATION: _____

CONDUCTED BY: _____

NOTES

QUIZ ANSWERS

T, F, F, F, T