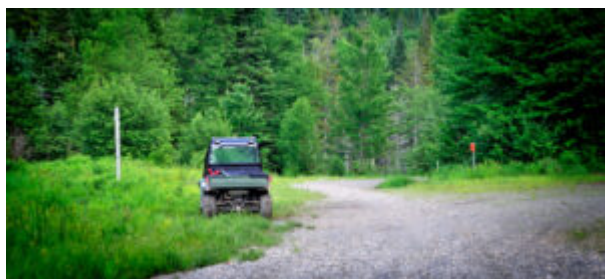


# DOS & DON'TS: [û] Discipline Workers Who Violate Safety Rules



Setting safety rules and procedures for your workplace will only help keep workers healthy and safe if you enforce those rules and procedures. That is, if workers commit safety infractions, you must discipline them appropriately and consistently. If you ignore such infractions or irregularly enforce the safety rules, you'll not only undercut any due diligence defence you may raise down the road but also undermine any subsequent attempts you *do* make to discipline workers. An employer in Ontario recently fell into that trap.

A safety coordinator went to a job site to conduct an audit. He saw a worker and a foreman operating a utility terrain vehicle (UTV) without wearing helmets or seatbelts in violation of company rules. He didn't order them not to operate the UTV without this equipment or immediately report the incident, although he did take a photograph of them on the UTV and call the construction manager the following evening about the incident. As a result, the worker was suspended for three days and the foreman was fired. They filed grievances.

The Labour Relations Board noted that the company safety rules required the use of seatbelts and Department of Transport-approved helmets when operating UTVs. Both the worker and foreman had been trained on these rules. But the safety rules didn't specify that violations could result in discipline, including discharge. The evidence also showed that the rules generally weren't observed. For example, workers testified that they'd operated UTVs at this and other job

sites without helmets or seatbelts and no one in authority had directed them to wear this protective equipment. In fact, the only evidence of any action taken previously to enforce compliance with the helmet rule was an area construction superintendent's testimony that he would verbally advise workers of the need to comply and would stop them from using the UTVs until they were in a position to do so. However, there was only one helmet available at this job site, making compliance impossible.

In light of the above, the Board concluded that the discipline imposed on the worker and foreman was disproportionate to the offences and the discipline imposed on other employees for safety infractions. So it ruled that the worker should be suspended for one day and the foreman suspended for five [*Canadian Union of Skilled Workers v. Hydro One*, [2014] CanLII 10775 (ON LRB), March 6, 2014].

**Insider Says:** For more on properly disciplining workers for safety infractions, go to our Discipline and Reprisals Compliance Centre. Also, attend our webinar on April 9 in which OHS lawyer Adrian Miedema will explain the key lessons you can learn from cases involving discipline for safety violations and practical recommendations you can apply in your workplace.