

DOS & DON'TS: [û] Notify Workers of Changes to Enforcement of Safety Rules



Employers can always change their approach to enforcing safety rules. For example, if there's been a spate of safety incidents involving the violation of a particular rule that hadn't been strictly enforced, it's smart to begin enforcing that rule more strictly now to prevent similar incidents. But you must let workers (and the union, if applicable) know about such changes in advance. Otherwise, they may be able to successfully challenge any discipline you impose under the new enforcement policy as being inconsistent with discipline imposed on other workers for similar infractions in the past.

A BC sawmill learned this lesson the hard way. It suspended a worker for six days for smoking near a propane tank and not in a designated smoking area and for not wearing a hardhat or safety glasses in an area where such PPE was required. The union challenged the discipline.

The arbitrator said the worker was clearly in violation of several company safety policies. He'd also been warned before about similar conduct. And he didn't immediately acknowledge that he was wrong. But given how the mill had treated other workers who'd violated these policies, a six-day suspension was excessive. The arbitrator explained that if the sawmill was going to change its approach to enforcing these safety policies 'because of a heightened concern about safety within its mill, the employees in the bargaining unit and the Union were entitled to notice of that change before it was implemented. In my view, fairness required it.' Otherwise, the first worker affected by that change would be unfairly discriminated against, added the arbitrator. So he reduced the suspension to three and a half days [*Tolko Industries Ltd. (Kelowna Division) v. United Steelworkers, Local 1-423 (Holmes Grievance)*, [2012] B.C.C.A.A.A. No.

130, Oct. 22, 2012].

Insider Says: OHS lawyer Cheryl A. Edwards spoke about disciplining for safety at the OHS Summit 2012. Watch this video interview of Cheryl explaining the importance of giving workers notice of changes in how you're going to enforce safety rules. And go to the Discipline and Reprisals Compliance Centre for more information on properly disciplining workers for safety infractions.