

Is Fear of Heat Stress Valid Grounds for a Work Refusal?



How hot has it been? So hot that government authorities in some provinces, including the Quebec CNESST, have temporarily lifted masking requirements for outdoor work. Of course, workers are all too aware of how having to wear protective equipment can increase risks of heat stress. Not surprisingly, this issue has given rise to many work refusals.

Under OHS laws, a work refusal is justified only if the worker or another person is in real and undue danger. Mere discomfort isn't enough. Fears prompting refusals must be 'reasonable.' Unfortunately, the laws don't define what reasonable means. The only way you can really judge it is by looking at actual cases.

And that's what we did. There are basically 10 factors courts and OHS tribunals use to judge whether heat stress refusals are justified, including not just the actual thermal conditions but also the way workers and employers behave before and during the refusal process. You might want to go to school on these factors in case one of your own workers engages in a heat stress work refusal.