

Is Relying on Training from Previous Employers Enough to Comply with OHS Training Requirements?



A quiz explaining what it means to ‘ensure’ workers are properly trained.

What’s at Stake: OHS laws say employers must ‘ensure’ workers have the training they need to perform their job safely; they don’t say that employers have to provide that training themselves. This issue comes into play when you hire experienced workers to perform hazardous jobs knowing that they have received extensive safety training from their previous employers. The question then becomes whether you can rely on this previous training to satisfy your duty ‘to ensure’ that the worker is properly trained to do the job at your site. Going through the following scenario and quiz will help you answer that question.

SITUATION

A brick company hires a trained worker with 30 years’ experience and puts him right to work. His job is to inspect bricks as they advance on the conveyor, hand-pick the bad bricks out of the line and rake the good bricks so that a large dehacker machine can carry them away. Six months into the job, the worker wanders into an unguarded area in the path of the dehacker machine and gets crushed. He survives but can never work again.

The company didn’t train the worker on the dangers of the dehacking machine or specifically warn him to keep clear of the unguarded area. But the company didn’t think it had to. After all, anybody who had been around brickwork for as long as this guy would understand the dangers of going into an unguarded path of a dehacker machine without having to be told. All he needed, the company decided, was a one-day crash course on the company’s safety procedures when he first started. The worker also attended regular monthly safety meetings. And since he was a new worker, the supervisor kept an eye on him and warned him to be careful when working with the machines.

QUESTION

Did the company do enough to ‘ensure’ the worker had proper safety training to do his job’

Yes or No'

ANSWER

No

EXPLANATION

This scenario is based on an oft-cited Ontario case called *R. v. Canada Brick* [2005] O.J. No. 2978, involving the crushing of a veteran brickworker who joined a company after working at another plant for over 30 years. The company claimed that it used due diligence, i.e., took all reasonable steps to comply with OHS laws and avoid violations. But the court disagreed and held the company liable. Among other things, the court said that the company didn't ensure the brickworker had the proper training to do his job safely.

The 2 Lessons

There are 2 important compliance lessons to take away from all this.

1. Relying on Training from Previous Employers Isn't Enough

The company admitted that it didn't fully train the worker in the dangers of doing his job but figured he was already trained to work safely as a result of his +30 years of brickwork experience. But the court saw it differently. A company can't rely on the training provided by a previous employer, it said. Safety training from one company doesn't necessarily translate to another company, particularly when the machines and processes involved are different. Thus, the company should have specifically trained all of its new workers, even veteran brickmakers, on the dangers of the de hacking machine.

Takeaway

Unlike skills training, safety training isn't fully portable and even experienced workers need to be trained on the unique hazards posed by the machinery, equipment and operations of the site.

2. Warnings No Substitute for Required Engineering Controls

The other reason that the company couldn't prove due diligence is that it failed to have the required machine guards in place to block access to the de hacking machine. Instead, it relied on its supervisor to walk around the plant, keep an eye on workers, especially new ones, and caution them to be careful when working with the machines. Although the supervisor was competent and conscientious, these warnings weren't enough to protect workers from machine hazards, the court concluded. On the contrary, they were evidence showing that the company recognized the risk of a machine incident and didn't take the proper engineering measures to prevent it.

Takeaway

OHS laws often require you to implement engineering controls to prevent a safety hazard, e.g., installing machine guards. While you do have leeway to decide which engineering controls are reasonably practicable for your site, deciding

not to implement any engineering controls at all and relying on supervisors to warn of the hazards is highly problematic.