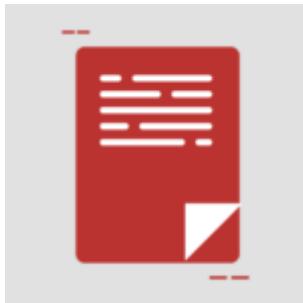


Lessons from Ontario Arbitration on JHSC Reprisal and Worker Protections



Case Summary

A food plant fired the worker co-chair of the JHSC for falsely telling workers that the water at the site was contaminated in a deliberate attempt to “incite” a work refusal. But the Ontario arbitrator found no just cause to terminate and ordered him to be reinstated. The evidence showed that what the worker actually said was that a potable and non-potable water line had crossed on one of the lines and had been shut down. “That is not the same as saying that the water at the plant was contaminated,” the arbitrator explained. Accordingly, the termination was not only wrongful but also an illegal reprisal for engaging in workplace safety activity and reporting protected by the OHS laws. Result: The plant had to reinstate the worker with no loss of seniority but it didn’t have to pay punitive damages [United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Work..., 2025 CanLII 86379 (ON LA), August 20, 2025].

Why This Case Matters

For OHS managers, this case touches the heart of how workplace safety systems are supposed to function. Joint Health and Safety Committees are not symbolic – they exist to give workers a protected voice in identifying hazards and influencing safety practices. When a JHSC member is disciplined, demoted, or terminated for exercising those functions, the entire system of joint participation is undermined.

The Ontario arbitrator's ruling is a reminder that reprisal protections in OHS laws are not just legal technicalities. They are essential to ensuring that workers feel free to speak up about safety issues without fear of career consequences. This case raises practical and ethical questions. How should managers handle situations where a JHSC member makes a statement that management believes is misleading? How can employers balance protecting reputations with respecting the legal shield workers have when engaging in health and safety activities? And what systems should OHS managers put in place to prevent these conflicts from escalating to termination and arbitration?

The Role of JHSCs in Canadian Workplaces

Joint Health and Safety Committees are mandated in most Canadian jurisdictions once a workplace reaches a threshold number of employees. In Ontario, that threshold is 20 or more regularly employed workers. Other provinces have similar thresholds, ranging from as few as 10 workers in Nova Scotia and New Brunswick to 20 in Alberta and federally regulated workplaces.

The role of the JHSC is to identify hazards, conduct

inspections, participate in investigations, and make recommendations to management. Worker representatives are meant to act without fear of reprisal. This is why OHS legislation explicitly protects them when raising safety concerns. In fact, in Ontario's Occupational Health and Safety Act, reprisals are prohibited not only for JHSC activity but for any exercise of rights under the Act, including refusing unsafe work, providing information to inspectors, or testifying in hearings.

This means employers must be extremely cautious when disciplining JHSC members. Even if a worker is mistaken, exaggerates, or causes disruption, the law leans heavily in favour of protecting the worker if the conduct is connected to safety duties.

What Actually Happened in This Case

The employer in this case believed the worker co-chair had deliberately incited a work refusal by spreading false information that the plant's water was contaminated. If true, that could have serious implications—work refusals can cause production shutdowns and reputational harm. But the arbitrator carefully examined the evidence.

What the worker had actually communicated was that a potable and non-potable water line had crossed and been shut down. That was a factual statement, not an allegation of contamination. Management's interpretation, and the resulting termination, was an overreach.

This distinction is important. OHS law does not expect workers to always phrase concerns perfectly or limit themselves to management-approved language. If their actions are grounded in legitimate safety concerns, they are protected. This case underscores that management must interpret worker statements

charitably when they touch on safety.

Questions This Case Raises for OHS Managers

1. How should OHS managers respond when a JHSC member's statement is seen as inaccurate or disruptive?

This case shows that immediate discipline, especially termination, is risky. The safer path is to clarify, investigate, and correct misinformation if needed. If the worker's actions stem from genuine concern, the law protects them. Managers must separate intent from impact.

2. What constitutes an "illegal reprisal"?

In Canada, reprisals include dismissals, penalties, threats, suspensions, or any adverse action linked to a worker exercising OHS rights. Even if an employer couches the action in performance terms, if the real driver is safety activity, it may be deemed reprisal.

3. Do JHSC members have greater protection than other workers?

Technically, all workers are protected when exercising OHS rights. However, JHSC members have heightened visibility and responsibilities. Disciplining them is almost always scrutinized as reprisal unless unrelated misconduct is clearly documented.

4. How can employers maintain discipline without crossing into reprisal territory?

Employers are not powerless. If a JHSC member engages in harassment, fraud, or unrelated misconduct, discipline may be justified. The key is evidence and clear separation from their safety role. Documenting investigations, consulting legal

counsel, and involving neutral parties helps demonstrate good faith.

Training and Communication Gaps

This case also highlights communication issues. Workers were concerned about water safety. The co-chair voiced those concerns. Management perceived his words as inflammatory. At the root of this conflict was a failure to ensure clear, transparent communication about hazards.

OHS managers must invest in training JHSC members not only on legal duties but on communication skills. Knowing how to report hazards factually, escalate appropriately, and distinguish between risk and speculation can prevent misunderstandings. Similarly, management needs training on reprisal law, so they do not mistake protected activity for insubordination.

Training audits show that competency is not just technical—it includes knowledge of OHS rights and communication obligations. Refreshers for JHSC members should include these topics, not just hazard identification.

JHSC Effectiveness Depends on Trust

The bigger picture is that JHSCs only function when both workers and management trust the process. Workers need to know their representatives can speak freely. Employers need confidence that concerns will be raised responsibly. When either side loses trust, conflicts like this arise.

This arbitration reinforces that the law prioritizes the worker side of that equation. The reason is simple: power imbalances. Employers control pay, scheduling, and discipline. Without strong legal shields, workers would hesitate to raise

concerns. For OHS managers, this means building trust deliberately. Support JHSC members, encourage open dialogue, and address issues promptly rather than punitively.

Reprisal Protection Across Canadian Jurisdictions

Although this case is Ontario-specific, similar protections exist nationwide.

- **Ontario:** Prohibits reprisals broadly and allows workers to file complaints with the Ontario Labour Relations Board.
- **Alberta:** Protects workers from "discriminatory action" if they exercise safety rights, including JHSC participation.
- **BC:** Workers can file complaints with WorkSafeBC if disciplined for safety activity.
- **Federal jurisdiction:** The Canada Labour Code bans reprisals and provides recourse to federal labour boards.
- **Other provinces:** Each has variations, but all prohibit discipline tied to safety rights.

The consistency across jurisdictions underscores that this is not just an Ontario issue. Any Canadian employer risks legal consequences if they discipline a worker for raising safety concerns.

Audits and Oversight of JHSC Function

One of the lessons from compliance audits is that employers should periodically evaluate whether their JHSCs are operating effectively. That includes reviewing whether members have proper training, whether minutes are recorded accurately, and

whether disputes are handled constructively.

In this case, the dispute escalated to arbitration because there was no internal resolution. A healthier system would have addressed the water concern in committee, clarified the facts, and communicated them jointly to workers. That requires structure, trust, and a culture that sees JHSC members as allies, not adversaries.

The Human Impact of Reprisal

Discipline is not just a legal matter—it affects morale. When workers see a JHSC co-chair fired, even temporarily, the message is clear: speaking up is risky. That chilling effect undermines the very purpose of having a committee. The reinstatement in this case restores the individual's job, but rebuilding trust in the safety system will take longer.

OHS managers must recognize the ripple effect of reprisal. Even perceived reprisals can silence workers. This is why transparency, fairness, and due process are critical in handling disputes involving safety representatives.

Building Practical Safeguards

What can OHS managers do to prevent similar situations? Some strategies include:

- Establishing protocols for investigating concerns raised by JHSC members before any disciplinary steps are considered.
- Training supervisors on reprisal laws and the broad protection they give to safety activity.
- Ensuring JHSC minutes accurately reflect discussions so that statements cannot be mischaracterized later.
- Providing refresher training for JHSC members on both hazard identification and communication.

- Consulting with legal counsel before disciplining any JHSC member to assess reprisal risk.

These safeguards may seem procedural, but they protect not only workers but also employers from costly legal outcomes and reputational harm.

Conclusion

The Ontario arbitration case reminds Canadian OHS managers that disciplining JHSC members for safety-related statements is fraught with legal risk. Even when management perceives those statements as inaccurate, the law errs on the side of protecting worker participation.

By respecting reprisal protections, supporting committees, and fostering dialogue, OHS managers can build resilient systems where safety concerns are raised freely and addressed constructively—without fear, without reprisal, and without undermining the very protections that save lives in workplaces nationwide.