

Must You Report a Workplace Death from Natural Causes?



SITUATION

A bank worker enters the bank's bathroom and finds the manager, who has a history of heart problems, collapsed on the floor, unconscious and not breathing. He alerts his co-workers, who try to resuscitate the manager. The police and paramedics arrive and also try to save the manager. But he dies, apparently of a heart attack. At first, the bank decides not to report the manager's death to the federal safety authorities. However, a week later, it changes its mind and reports the fatality. A federal health and safety officer cites the bank for failing to report a worker's death within 24 hours in violation of federal OHS law.

QUESTION

Did the bank violate the workplace safety reporting requirements?

- A) Yes, because employers must report any incident for which the police are called.
- B) Yes, because the reporting requirements apply to any worker death in the workplace.
- C) No, because the manager appeared to have died of natural causes.
- D) No, because the manager wasn't working when he died.

[learn_more caption="Click for Answer"]

B.) The bank violated the reporting requirements, which apply to any worker's death in the workplace, such as the manager's death.

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EXPLANATION

This situation is based on an actual federal case in which the OHS Tribunal upheld a federal health and safety officer's citation to a bank for not reporting the death of its manager within 24 hours. Sec. 15.5 of the federal *OHS Regulations* requires an employer to report "the death of an employee" to a health and safety officer within 24 hours of becoming aware of the death. In addition, Sec. 125(1)(c) of the *Canada Labour Code* requires employers to report to the authorities all "accidents...and other hazardous occurrences known to the employer." The bank argued that it didn't have to report the manager's death because it didn't occur because of an accident or hazardous situation in the workplace, claiming the reporting requirement wasn't intended to apply to deaths from natural causes.

But the Tribunal disagreed. It noted that the OHS law requires health and safety officers to investigate every death of a worker that occurs in the workplace or while the worker is working. The ordinary and usual meaning of this language includes deaths that are determined to be from natural causes. And a health and safety officer must be notified of a worker's death to fulfill the duty to investigate it. Thus, the Tribunal concluded that the bank manager's death, which occurred in the workplace and while he was at work, triggered the reporting requirements.

Insider Says: For more information on complying with the OHS reporting requirements, see "The Duty to Report: What Kinds of Workplace Incidents Must You Report?" Aug. 2008, p. 1.

WHY WRONG ANSWERS ARE WRONG

A is wrong because although the federal OHS law does require employers to report various types of incidents, it doesn't require reporting of an incident just because the police were called. For example, in addition to worker fatalities, federally regulated employers must report:

- A disabling injury to two or more workers;
- A worker's loss of a body member or a part thereof or the complete loss of the usefulness of a body member or part thereof;
- A fire or explosion;
- Damage to a boiler or pressure vessel that results in a fire or rupture of the boiler or vessel; and
- An electric shock, toxic atmosphere or oxygen-deficient atmosphere that caused a worker to lose consciousness.

C is wrong because the cause of a worker's death is irrelevant. Federal health and safety officers must investigate *all* worker deaths, regardless of their cause. In addition, the cause of a worker's death may not be immediately apparent. So what may seem to be a death by natural causes could, in fact, be work-related. For example, in this case, although it appeared that the bank manager died of a heart attack, an investigation could've revealed that he'd been overcome by a toxic gas or that the heart attack was, in fact, brought on

by work-related stress.

D is wrong because although the manager wasn't working at the very moment he died, he was in the workplace and on duty at the time. Thus, his death triggered the reporting requirements despite the fact it didn't happen while, say, he was at his desk or speaking to a customer.

SHOW YOUR LAWYER

Re Royal Bank of Canada, [2012] OHSTC 5, Feb. 3, 2012