

OK to Fire Worker with Valid Refusal for Not Giving Clear Refusal Notice



A program analyst complains about strong odours at the windowless and unventilated warehouse where he works, but to no avail. Things come to a head when he gets headaches from the smell of paint used by indoor painters. The next day, he brings in a can of paint and points to the warning against breathing in vapours and instructions to use only in well-ventilated areas. The employer says there's no PPE and vaguely promises future improvement. The analyst leaves the building unsatisfied and doesn't return for several days. Result: He's fired. CNESST finds no reprisal. Although he had valid grounds to refuse, the analyst didn't make it clear that he was exercising his refusal rights. So the employer had grounds to fire him for not showing up for work in breach of his employment contract [*Mckay and Lab Integration Inc.*, 2018 QCCNESST 5 (CanLII), Jan. 11, 2018].