

Quiz: Can the Next Shift Refuse Work Found Not Dangerous in the Previous Shift?



SITUATION

A worker refuses to work on a machine that he contends is improperly guarded. The company investigates and reports that the machine is safe. But the worker still refuses. So, a Ministry of Labour (MOL) inspector is called to the scene. After doing her own investigation, she agrees with the company and concludes that there's no danger to the worker. Everybody returns to work and the shift ends. But workers on the next shift get wind of the refusal and they in turn refuse to work. The company shows them the MOL inspector's report finding the machine safe and explains that nothing has changed since it was created a couple of hours earlier. But the workers are still sincerely worried about their safety and refuse to work.

QUESTION

Can the company discipline the second shift workers for refusing to work?

1. No, because the workers' concerns for their own safety are reasonable

2. No, because the workers' concerns for their own safety are sincere
3. Yes, because the OHS investigation shows that there's no real danger
4. Yes, because while individuals have the right to refuse work, an entire shift of workers does not

ANSWER

3. The company can discipline the workers because the results of the OHS investigation establish that there's no danger and thus no grounds for continuing the work refusal.

EXPLANATION

This scenario is based on the facts of an old but still significant case in which the Ontario Labour Relations Board (OLRB) held that the refusal was improper and the refusing workers were thus subject to discipline. Explanation: As in all other jurisdictions, OHS refusal rights in Ontario apply only when the worker's safety concerns are reasonable. The OLRB concluded that the second shift workers' fears about the lack of the machine guard were unreasonable because 'the issue had been previously resolved and the workers had information about the resolution' [*Camco Inc.*, [1985] OLRB Rep. Oct. 1431]. So, C is the right answer.

WHY WRONG ANSWERS ARE WRONG

1) is wrong because the fact that the OHS investigator found that there was no danger shows that the safety concern of the workers was *not* reasonable.

2) is wrong because fears prompting an OHS work refusal must be not just sincere but also reasonable. And the second shift workers' refusal was unreasonable.

4) is wrong because it's simply not true that the right of refusal is limited to individual workers. A group of workers'even an entire shift'may refuse dangerous work as long as the refusal meets all applicable OHS requirements.