

Spot The Safety Violation: It's All Fun & Games Until Someone Gets Hurt



All jokes aside, what's wrong with this picture'



Just because it's called 'work' doesn't mean we can't enjoy our jobs and have some fun. That being said, however, fooling around in the workplace'especially in those that are safety sensitive and with dangerous tools'isn't appropriate or safe.

In this staged picture, clearly the worker with the saw doesn't intend to hurt his co-worker. But he could easily trip and hit his colleague in the head with the heavy tool'and heaven forbid he inadvertently hits the power button at the same time. Or the co-worker could stumble as he's leaning over to strike his pose and hit the saw or knock over the other worker.

Of course, it doesn't help matters that the worker with the saw has a cigarette hanging out of his mouth while they're joking around on the worksite.

Consequences of Workplace Pranks

Horseplay in the workplace is not only a bad idea, it may also be barred under the OHS laws. For example, the BC OHS regulations bar workers from engaging in any improper activity or behaviour at a workplace that might create or constitute a hazard to themselves or to any other person, including horseplay and practical jokes [Secs. 4.24 and 4.25].

And Newfoundland's OHS regulations state that a 'person shall not engage in horseplay, scuffling, unnecessary running or jumping, practical jokes or other similar activity or behaviour that may create or constitute a hazard to workers [Sec. 26(3)].

If workers joke around on the job, they could get hurt and workers' comp may not cover their injuries.

Example: When a driver drove a company truck past a worker, the worker sprayed water at him through the passenger window as he was coming and again as he was going. The driver and worker started arm wrestling through the truck's window. The driver mistakenly pressed the gas pedal instead of the brake, hitting the worker and causing him to fall. The truck ran over his arm, breaking it in multiple places. The worker's workers' comp claim was denied because the investigator concluded that he was engaged in horseplay at the time of the incident.

The New Brunswick Workers' Compensation Appeals Tribunal upheld the claim's denial. The worker had engaged in horseplay with someone operating a three-tonne truck while he was walking beside it, which was not only dangerous for those directly involved but also posed a serious safety concern for other workers in the area. The Tribunal concluded that the worker had willingly, intentionally and wholly participated in dangerous and serious horseplay that placed him outside the course of his employment when he was injured [Re 20043740, [2004] CanLII 66149 (NB WHSCC), Dec. 24, 2004].

In addition, engaging in horseplay or pranks may give the employer cause to discipline and maybe even fire the workers involved:

- As a joke, a worker in Ontario rolled two heavy springs at his manager. The manager who had to dodge the springs wasn't amused. He filed an incident report, calling the worker's actions a safety hazard and violation of company policy. The company suspended the worker and later fired him after investigating the incident. The union appealed. The company had work rules specifying penalties for various work offences. Attempting to injure another worker was considered a Group I offence resulting in termination. Group II offences, which included horseplay and throwing things, called for suspension. The court found that the worker didn't mean to hurt the manager and said that his conduct amounted to horseplay. It ordered the company to reinstate the worker, but didn't require reimbursement for his time off [Hendrickson Spring, Stratford Operations v. United Steelworkers of America, Local 877 (Schragner Grievance), [2005] O.L.A.A. No. 644, Oct. 25, 2005].
- Two BC workers were fired after engaging in horseplay in a production area

that ended in a fistfight. The company had a rule against horseplay, with which both workers were familiar. But neither had a safety record. In addition, both had good work records and admitted participating in the incident. Thus, termination was excessive. Instead, the arbitrator ruled that the worker who threw the first punch should be suspended two months without pay and the other one month without pay [*Grimm's Fine Foods v. United Food and Commercial Workers Union, Local 247 (Costas Grievance)*, [2010] B.C.C.A.A.A. No. 146, Oct. 12, 2010].

- In Saskatchewan, two workers 'the most senior on duty' talked and played 'beer baseball' with cans of beer while they should've been working. Then one worker ran a power jack into a forklift the other was operating. Although the forklift was damaged, neither worker reported it. Their antics were caught on video and they were fired. An arbitrator upheld their termination. Beer baseball posed a serious safety hazard but the workers downplayed it. They also claimed that the forklift incident was an accident when it appeared to be intentional. And as senior workers aware of the company's rules and safety policies, they should've behaved better [*United Food and Commercial Workers, Local 1400 v. Brewers' Distributer Ltd.*, [2010] CanLII 33227 (SK L.A.), June 17, 2010].
- After a video surfaced on the internet of a worker having his scrotum stapled to a wooden plank, the Ontario company fired the worker for violating its harassment policy, which barred pranks of a sexual nature. The Labour Relations Board upheld his termination. The video, which became well-known, was shot in the workplace (although not during work hours) and the worker's employer was readily identifiable. Thus, it undermined the company's safety reputation in the industry. In addition, his conduct violated not only company policy but also OHS law, which barred workers from engaging in pranks [*International Union of Elevator Constructors, Local 50 v. ThyssenKrupp Elevator (Canada) Ltd.*, [2011] CanLII 46582 (ON LRB), July 28, 2011].

Bottom line: What can seem like a harmless, innocent joke at the time can have very serious 'and sometimes life-changing' consequences. So make sure that workers understand that workplace safety is no laughing matter.