

Supreme Court Rules Pregnant Teacher Entitled to Preventative Withdrawal



Qu bec's OHS law lets pregnant women refuse to perform work that poses a health or safety danger to themselves or their fetus and to be reassigned to avoid those risks. If reassignment isn't possible, they have the right to 'Preventive Withdrawal,' during which they stop working and get income replacement benefits. A pregnant substitute teacher was vulnerable to contagious viruses that can be spread by groups of children. The school board offered her a one-day teaching position, which she accepted. But due to the health risks of the classroom, the CSST told her she was entitled to reassignment or Preventive Withdrawal. The Board appealed to the CLP, which found that she wasn't eligible for Preventive Withdrawal because of her inability to go into the classroom. The Supreme Court of Canada upheld the appeal, explaining that a contract was formed when the teacher accepted the board's offer to 'supply' teach and thus was a 'worker' under the OHS law. Her legislated right to withdraw from an unsafe workplace can't be used to negate the formation of an employment contract. The teacher's pregnancy didn't prevent her from performing the work'it was the dangerous workplace that prevented it [[Dionne v. Commission scolaire des Patriotes](#), [2014] SCC 33 (CanLII), May 1, 2014].