

TRAPS TO AVOID: Not Putting Safety Procedures Learned on the Job in Writing



Written safety procedures are the foundation of an effective OHS program. All procedures, rules and policies designed to keep workers safe on the job need to be memorialized to ensure that everyone knows exactly what they're supposed to do. Failing to put safety procedures in writing can leave workers vulnerable to injury—and companies vulnerable to fines for safety offences. Just look at what happened to an employer in Ontario.

Due Diligence Defence Fails for Lack of Written Procedures

A worker removed a fence guarding the back of an induction hardener to troubleshoot a leak. He was seriously injured by an electrical shock. His employer was charged with failing to provide the worker with sufficient instruction on troubleshooting leaks. The company raised a due diligence defence, arguing that the worker didn't follow procedure.

The Ontario Court of Justice found that the employer's procedures with regard to troubleshooting weren't written out and were, in fact, primarily learned through knowledge and experience. For example, it didn't include guidelines or instructions for troubleshooting procedures in its Hazardous Energy Control Program. As a result, the instructions as to troubleshooting and partial lockout weren't clear and were contradictory and confusing. And given the amount of troubleshooting done in the workplace and how "inherently risky" it is, the court concluded that due diligence required the employer to develop a written policy on troubleshooting and a related training program. So it convicted the employer [*Ontario (Ministry of Labour) v. Linamar Holdings Inc.*].

Insider Says: The court in *Linamar* also criticized the employer's training on lockout and troubleshooting—or rather its lack of adequate training. For more information on effective safety training, go to the Training Compliance Centre. And for training tools, such as safety talks, leader sheets, quizzes and online training, go to our sister site, SafetySmart. (You'll need to be a Safety Smart member or sign up for a trial membership to access these tools.)

SOLUTION: Put All Safety Rules & Procedures in Writing

It's not sufficient to put some or even most of your safety rules in writing. It's critical that you put *all* safety rules, policies and procedures in writing—including safety procedures that workers learn from supervisors on the job and not through formal training. Unwritten safety procedures that are passed down orally during on-the-job-training can easily get distorted or be misunderstood. So assess the safety procedures used in your workplace and determine if there are any “informal” procedures that aren't included in the company's OHS program. If so, document those procedures in writing and add them to your existing written safety rules.

SHOW YOUR LAWYER

Ontario (Ministry of Labour) v. Linamar Holdings Inc., [2012] O.J. No. 2159, May 7, 2012