

# Worker Keeps Refusal Claim Alive Despite Missing Appeal Deadline By 3 Days



A dock supervisor brought a work refusal claiming that the dock plates bridging the gap between the loading dock and delivery truck were unsafe. Unsatisfied with the employer's and JHSC's finding of no danger, the supervisor asked the MOL to intervene. But the MOL investigator reached the same conclusion. The *Canada Labour Code* gives refusing workers 10 days to appeal an MOL finding in a refusal case. But the supervisor missed the deadline by 3 days. His final hope: The OHS Tribunal's discretion to extend the deadline in the interest of fairness and safety. And that's what came to pass. The Tribunal's reasoning in cutting the supervisor some slack: the supervisor's mistaken belief that the 10-day appeal deadline applied to *working* days was reasonable, especially since the MOL notification didn't specify that it was based on calendar days; and he missed the deadline by only 3 days [*Lambe v. McKeivitt Trucking Limited*, 2019 OHSTC 2 (CanLII), Jan. 22, 2019].