CALGARY SAFETY CONSULTANTS

Supervisor Quick Guide to Work Refusals

The first five minutes

A work refusal happens when a worker stops a task because they believe it's dangerous. Every Canadian jurisdiction protects the right to refuse unsafe work. The worker doesn't have to be right; they need reasonable grounds to believe the danger exists. Your job is to keep everyone safe, investigate fairly and follow the law. Most refusals go wrong in the first five minutes, so start here.

First five minutes checklist

- ☐ Stop. Listen to the worker and take the concern seriously.
- ☐ Write down what the worker says, in their words, with the time and place.
- ☐ Stop the task and make the area safe. Keep others clear.
- ☐ Check that the refusal doesn't leave anyone else in danger.
- ☐ Keep the worker nearby in a safe place, on the clock. Offer reasonable alternative work.
- ☐ Do not give the job to someone else.
- ☐ Call the committee worker co-chair, worker member or representative.
- ☐ Start the Work Refusal Investigation Record.

Things to say

- "Thanks for raising it. Show me what you're worried about."
- "Let's stop this task until we've looked at it properly."
- "I'm calling the committee rep so they can look at it with us."
- "You'll stay on the clock. Here's something else you can work on meanwhile."
- "If we can't sort it out here, we'll call the regulator."

Things never to say

- "Just get it done." or "Everyone else does it."
- "If you won't do it, go home." or "You're off the clock."
- "I'll get someone who will."
- "This will go on your file."
- Anything that sounds like a threat, a joke at the worker's expense or a hint about future shifts.

Before giving the refused work to anyone else: tell them about the refusal and the reasons, why you believe the work is safe and their own right to refuse, in writing and with a worker representative present. Most jurisdictions restrict reassigning refused work; see page 4.

The three rights behind a refusal

- **The right to know** about hazards at work and how they're controlled.
- **The right to participate** in health and safety, including through committees and representatives.
- **The right to refuse** dangerous work without reprisal. Respecting the first two helps hazards get fixed before anyone needs to refuse.

Key definitions

Term	What it means
Work refusal	A worker stopping a task they have reasonable grounds to believe is dangerous to them or another person, using their legal right.
Reasonable grounds	The worker's belief must be one a reasonable person could hold. The worker doesn't have to be right about the danger.
Worker representative	A worker member of the joint committee, the health and safety representative, a union-selected worker or another worker, depending on your law.
Reprisal	Also called discriminatory, disciplinary or prohibited action: any penalty for using a safety right, from a warning or lost pay to dismissal.
Officer or inspector	The government official who investigates an unresolved refusal and makes a decision both sides must follow, subject to appeal.

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Step-by-step process

Tick each step as you complete it. The order and who must take part vary by jurisdiction, so check the tables on pages 3 and 4.

1. Listen and record

- ☐ Concern recorded in the worker's own words
- ☐ Date, time, place, task and equipment noted

2. Make the area safe

- ☐ Task stopped and hazard isolated
- ☐ Other workers kept clear
- ☐ No new danger created by stopping

3. Keep the worker nearby and paid

- ☐ Worker in a safe place at or near the work
- ☐ Reasonable alternative work offered at no loss of pay

4. Notify

- ☐ Committee or representative informed as soon as possible
- ☐ Manager informed
- ☐ Union informed (if any)

5. Investigate together

- ☐ Investigation at the work, with the worker present
- ☐ Worker representative present where required
- ☐ Equipment, procedure, hazard assessment and records checked

6. Fix it or explain it

- ☐ Hazard controlled using the hierarchy of controls
- ☐ Fix confirmed with the worker
- ☐ Or: reasons for no danger explained with evidence

7. If the refusal continues

- ☐ Regulator notified (by worker, employer or both, as your law says)
- ☐ Records ready for the officer
- ☐ Officer's decision followed

8. Record and follow up

- ☐ Written report completed and copies given
- ☐ Corrective actions assigned with owners and dates
- ☐ Hazard assessment updated
- ☐ Refusal reviewed at the next committee meeting

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Summary of the main rules. Section numbers are from the official legislation and government pages listed in our guide. Rules change; check your current law.

Jurisdiction	Legal test	Who joins the investigation	Regulator step
Federal	Danger (Canada Labour Code s. 128)	Employer with the employee; if refusal continues, one employee and one employer committee member, or the representative	Employer informs the Head of Compliance and Enforcement (s. 128(16))
Alberta	Undue hazard (OHS Act s. 17)	Employer discusses with the worker and inspects; committee or representative informed and given the report	Worker may notify an OHS officer (s. 17(13))
British Columbia	Undue hazard (OHS Reg. s. 3.12)	Worker member of the joint committee, union-selected worker or another available worker	Employer and worker both notify a WorkSafeBC officer (s. 3.12(5))
Saskatchewan	Unusually dangerous (SEA s. 3-31)	Occupational health committee; decision must be unanimous	OHS Division; officer gives a written decision
Manitoba	Danger to own or another person's safety or health (WSH Act s. 43)	Worker co-chair or worker member, the representative, or a worker chosen by the refusing worker (s. 43(3))	Safety and health officer (s. 43.1)
Ontario	Likely to endanger (OHSA s. 43)	Worker JHSC member, representative or worker chosen for knowledge, experience and training	Ministry inspector, written decision (s. 43(7) to (9))
Quebec	Danger (Act s. 12)	Safety representative or substitute (s. 16)	CNESST inspector decides immediately (ss. 18, 19)
New Brunswick	Likely to endanger (s. 19)	Supervisor with the employee, then committee (s. 20)	Officer (s. 20)
Nova Scotia	Likely to endanger (s. 43)	Supervisor, then committee or representative (s. 43(2))	OHS Division
Prince Edward Island	Likely to endanger (s. 28)	Supervisor with the worker, then committee or representative (s. 28)	Officer (s. 28(9))
Newfoundland and Labrador	Dangerous (s. 45)	Employer; committee or representative may investigate (s. 45)	OHS division or officer (s. 47)
NWT and Nunavut	Unusual danger (Safety Act s. 13)	Supervisor with another worker, committee member or union representative; committee within 24 hours	WSCC safety officer
Yukon	Right to refuse unsafe work (s. 47; check test wording)	Set out in ss. 48 and 49	Officer (s. 50)

Exceptions: federally, no refusal where it would directly endanger another person or the danger is a normal condition of employment (s. 128(2)). Quebec (s. 13) and Nova Scotia (s. 43(9)) have similar limits. Ontario limits the right for police, firefighters, correctional and some health care workers (s. 43(1) and (2)).

Questions to ask during the investigation

- ☐ What exactly is the worker worried could happen, and to whom?
- ☐ Is the hazard present now? Can the worker show it to us?
- ☐ How serious could the result be, and how likely is it today? What would make the work safe now?
- ☐ Are the usual controls in place and working (guards, lockout, procedures, PPE)?
- ☐ Has anything changed (equipment, weather, crew, materials)? Is the worker trained for the task?
- ☐ What do the hazard assessment, procedure, manufacturer's instructions and inspection records say?

Pay: the practical rules

- Keep the refusing worker on the clock at their regular rate for the whole refusal.
- Workers kept from working by the refusal may also have to be paid (for example, Quebec s. 28 and federal s. 128.1). Withholding pay for a good-faith refusal can be treated as a reprisal.

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Jurisdiction	Assigning the refused work to another worker	Pay during the refusal	Reprisal complaint
Federal	Only if qualified, told of the refusal and reasons, and not put in danger (s. 129(5))	Deemed at work until work resumes or shift ends, unless an agreement says otherwise (s. 128.1)	Board, within 90 days
Alberta	Not until no undue hazard is determined (s. 17(10)); written notice once an officer is notified (s. 17(14))	Reassignment at no loss in pay is not disciplinary action (s. 17(7))	OHS officer within 180 days (unionized workers grieve, s. 19(7)); employer onus (s. 19)
British Columbia	Written notice to the worker and their representative, including their right to refuse (s. 3.12.1)	Reassignment at no loss in pay is not prohibited action (s. 3.13(2))	WorkSafeBC in writing within one year; employer burden (s. 49)
Saskatchewan	Restricted by s. 3-34, Other workers not to be assigned	Officer can order lost wages repaid (s. 3-36)	Occupational health officer; employer onus (s. 3-36)
Manitoba	Inspection done, written notice of refusal, reasons, right to refuse and why safe; where practicable the first worker tells them (s. 43(6))	Same wages and benefits (s. 43.2)	Officer (s. 42.1)
Ontario	Told of refusal and reasons with a worker representative present (s. 43(11), (12))	Paid during the first stage (s. 43(13))	OLRB or grievance; employer must disprove
Quebec	Generally not (s. 14); after examination, once told of refusal and reasons (s. 17)	Deemed at work (s. 14)	Reprisals prohibited (s. 30)
New Brunswick	Told of refusal, reasons and their rights (s. 21(2))	Same wages and benefits (ss. 22, 23)	Arbitration or Commission within one year (s. 25)
Nova Scotia	Told of refusal, reasons and their rights (s. 44)	Same wages (s. 43(6), (7))	Officer in writing within 30 days, or arbitration (s. 46); employer burden (s. 45(3))
Prince Edward Island	Told of refusal, reasons and their rights (s. 29(2))	Same wages and benefits if reassigned (s. 29(3)); if not, only if the refusal is upheld (s. 29(5)); none if frivolous (s. 29(6))	Arbitration or Board (s. 31)
Newfoundland and Labrador	No separate rule found in ss. 45 to 51; give notice anyway	Same wages and benefits (s. 45(3), (4))	Grievance or Board (s. 51)
NWT and Nunavut	Not stated in the WSCC steps; give notice anyway	Paid during the investigation (WSCC)	Check the Safety Act
Yukon	Set out in s. 51	Check ss. 51 and 52	Complaint (s. 54); employer onus (s. 56)

Reassigning the refusing worker

- Most jurisdictions allow reasonable alternative work during the refusal, usually at no loss of pay. It must be genuinely reasonable, not a punishment.
- BC, Alberta and the Atlantic provinces say a temporary reassignment like this is not a reprisal or disciplinary action.

Written notice to a replacement worker: what to include

- ☐ That a worker refused this work, and when.
- ☐ The reasons the worker gave.
- ☐ What was found and what was done about it.
- ☐ Why the employer believes the work is now safe.
- ☐ The replacement worker's own right to refuse unsafe work.
- ☐ Signatures of the replacement worker, the supervisor and the worker representative who was present.

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Protecting the worker from reprisal

- Every jurisdiction prohibits punishing a good-faith refusal. In most, the employer must prove any action taken afterwards wasn't connected to the refusal.
- Reprisal includes dismissal, suspension, layoff, demotion, discipline, warnings, loss of pay, intimidation, coercion and threats.
- Don't change the worker's shifts, overtime or assignments because of the refusal, and don't put the refusal on their disciplinary file.
- Action for genuine abuse of the right is narrowly allowed (for example, wilful abuse federally, or within 10 days of a final decision in Quebec). Get advice first.

Exceptions and limits

- **Endangering others:** no refusal that would directly endanger another person (federal s. 128(2)(a), Nova Scotia s. 43(9), Quebec s. 13). In Alberta, the worker must make sure, as far as reasonable, that the refusal doesn't endanger anyone (s. 17(3)).
- **Normal conditions of the job:** no refusal where the danger is a normal condition of employment (federal s. 128(2)(b)), ordinary in that kind of work (Quebec s. 13) or inherent in the work (Nova Scotia s. 43(9)).
- **Ontario's limited right:** police, firefighters, correctional workers and certain health care workers can't refuse when the danger is inherent or a normal condition of their work, or when refusing would directly endanger another person (s. 43(1) and (2)).
- **Narrow, not broad:** a normal condition means the danger left with the usual controls in place, not a hazard out of control because a guard is missing or equipment failed its check.

Common mistakes to avoid

- [ ] Arguing whether the worker's belief is reasonable instead of following the process.
- [ ] Quietly giving the job to someone else without telling them about the refusal.
- [ ] Sending the worker home, clocking them out or docking pay.
- [ ] Leaving out the worker representative where the law requires one.
- [ ] Investigating from the office instead of at the work.
- [ ] Fixing the hazard without telling the worker or giving copies of the report.
- [ ] Treating the worker differently afterwards.
- [ ] Using another province's rules, or US rules, instead of your own jurisdiction's.

Tick the mistakes your supervisors are most likely to make and cover them in your next supervisor briefing.

When the regulator gets involved

- Call when the workplace steps don't resolve it and the worker still has reasonable grounds.
- Have notes, hazard assessments, procedures, training records and photos ready.
- Follow the officer's decision and orders. Use the appeal process if you disagree (federally, an employee can appeal the Head's no-danger decision in writing to the Board within 10 days of receiving it).

What to record

- [ ] The worker's reasons in their own words, with date, time and place.
- [ ] Immediate actions and who was notified, with times.
- [ ] Who took part in the investigation, what was examined and what was found.
- [ ] The decision, controls, and any notice to a replacement worker.
- [ ] Officer involvement, orders and compliance dates.
- [ ] Pay for the refusal period and the corrective actions with owners and dates.

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Your site contacts and procedure

Fill in this page for your site and keep it with the supervisor's tablet, in the truck or on the safety board, so the right calls get made under pressure.

Who to call

Role	Name	Phone	Email or radio
JHSC worker co-chair			
JHSC worker member (backup)			
Health and safety representative			
Manager on call			
Safety coordinator			
Union representative (if any)			
Regulator (OHS officer line)			

Jurisdiction whose OHS law applies

Refusal procedure document and revision

Our site procedure notes

Local steps, people and forms (for example, where the investigation record is kept, how to lock out shared equipment)

Supervisor briefing record

Supervisor	Date briefed	Briefed by	Done
			☐
			☐
			☐
			☐

Free guide and form. Read How to Handle a Work Refusal and download the Work Refusal Investigation Record at calgarysafetyconsultants.ca/safety-guides/committees/work-refusal/. Questions? Call Calgary Safety Consultants at 1-888-231-0358.

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