

Right to refuse dangerous work

OHS information for employers and workers

This resource gives information about a worker's right to refuse dangerous work and the processes involved.

KEY INFORMATION

- Work site parties can best address serious health and safety concerns through cooperation and internal resolution processes.
- Workers can refuse dangerous work that poses a serious and immediate threat to health and safety.
- OHS officers can inspect work sites for compliance with legislated requirements and investigate alleged undue hazards in relation to section 17 of the *OHS Act*.

Health and safety concerns

Workers and employers have general obligations under Part 1 of the *Occupational Health and Safety Act (OHS Act)*.

These include the obligation to raise and address health and safety concerns at the work site, including:

- Under section 5(1)(e), workers must report concerns about unsafe or harmful work site acts or conditions to their employer or supervisor.
- Under section 3(1)(f), employers must address reported health and safety concerns promptly.

While an employer is addressing a concern, other general obligations still apply. For instance, the worker must take reasonable care to protect themselves and others (section 5(1)(a) of the act) and the employer has to do what is reasonably practicable to protect the worker and others (section 3(1)(a) of the act).

In all cases, the focus of all work site parties should be on identifying and assessing the hazard, working together to resolve the matter and ensuring no one is in harm's way. If there is one, a joint health and safety committee (HSC) or health and safety representative (HS representative), will help to resolve the concern.

If the worker cannot resolve the health and safety concern with the employer, they can notify Alberta OHS. OHS officers have authority to inspect work sites and investigate health and safety concerns, in order to verify compliance with OHS legislation.

Work refusals

Section 17 of the *OHS Act* enables workers to refuse work if they reasonably believe there is an undue hazard at the work site or that particular work poses an undue hazard to themselves or others.

In this section, "undue hazard" in relation to any occupation includes a hazard that poses a serious and immediate threat to the health and safety of a person.



-*OHS Act*, s. 17(1)

An undue hazard is a serious and immediate threat to health and safety that the refusing worker actually observes or experiences at their work site.

General health and safety concerns are not dealt with under the work refusal process as they are not considered undue hazards.

Examples of undue hazards include:

- Sudden infrastructure collapses that result in an unsafe physical environment.
- A danger that would normally stop work, such as broken or damaged tools/equipment, or a gas leak.

Section 17 of the act describes the steps that workers and employers must follow in the work refusal process. These steps are obligations for both work site parties. Figure 1, at the end of this bulletin, gives an overview of the steps.

Worker obligations

You must report your refusal and the reasons for it promptly. Report to your supervisor, employer or the employer's designate.

As much as possible, ensure your refusal does not endanger the health and safety of others. For example, if safe to do so, place barriers around the danger to prevent others from being hurt.

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Throughout the work refusal process, cooperate with your employer as long as it is safe and reasonable to do so.

Employer obligations

First steps: remedy or stop work and inspect

If possible, remedy the hazard immediately.

In some cases, you may be able to resolve the issue and resume work right away. For example, if you can:

- Provide replacements for broken or damaged tools/equipment.
- Assign a trained and competent worker to a task that an untrained worker is refusing to do.

If you can't remedy the hazard immediately, you must stop work, discuss the matter with the refusing worker, and conduct a hazard inspection, assuming it is safe and reasonable to do so.

You cannot resume work or assign another worker to the task until you have done the hazard inspection and either remedied the hazard or determined there is no hazard.

HSC or HS representative involvement

If you have an HSC or HS representative, inform them of the refusal as soon as possible.

- You must do this even if you were able to remedy the hazard immediately.
- Do not give personal information to the HSC or HS representative.

The HSC or HS representative may raise concerns or make recommendations. As an employer, you must respond to these promptly.

Section 13(1) of the *OHS Act* states the purpose of an HSC or HS representative is "ensuring cooperation between the employer and workers in respect to health and safety." This cooperation can be key to effective work refusal resolutions.



Work refusal reports

If you had to do an inspection, you must write a work refusal report. This report must include:

- The circumstances surrounding the work refusal.
- Details of the hazard inspection.
- Any actions taken to remedy the undue hazard, if you determined there was one.

Your work refusal report should not include any personal information, such as the name or identity of the refusing worker.

- Privacy laws govern information sharing. If you believe personal information is necessary in your report, make sure that it is authorized under privacy law.

You must give the worker and the HSC or HS representative (if there is one) a copy of the report.

Work assignments

You can temporarily assign the refusing worker to different work during the work refusal process.

- The worker must be capable of doing their temporary work assignment.
- The temporary work can be on the site where the work refusal occurred, if it is safe to be there.
- Temporary work assignments cannot result in loss of pay.

You can require a refusing worker to resume work or assign another worker to the work if you have remedied an undue hazard immediately; or done a hazard inspection, resolved the hazard if necessary, and shared a work refusal report as required.

Notifying OHS

Throughout the process, work site parties should use internal processes to address work refusals and work through their legislated obligations. However, if the refusing worker receives your work refusal report and still thinks there is an undue hazard, they may notify OHS.

Workers can also notify OHS if they believe you have not carried out your obligations per section 17 of the act.

If you learn that a worker has notified OHS, you must advise (in writing) any other worker assigned to the work of:

- The first worker's refusal.
- The reason they refused.
- The reason you believe there is no undue hazard.

Alberta OHS

OHS Contact Centre

Call the OHS Contact Centre if you want more information about raising health and safety concerns or work refusals. An OHS Contact Centre advisor can clarify employer and worker obligations and may ask questions such as:

- Did the worker report their work refusal?
- Has the employer assigned another worker to do the work?
- Is there a work stoppage at the work site?
- What did the employer do to address the situation?
- Did the employer write and share a work refusal report?
- Has OHS inspected the work site in relation to the issue?

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OHS notifications

You may notify OHS if you are a worker who has refused unsafe work and:

- Your employer has not carried out their work refusal obligations.

Or

- Your employer has carried out their obligations but you still believe there is an undue hazard.

After notification, an OHS officer will verify – by phone or attending the work site – that the parties have followed their internal resolution process and met their legislated work refusal obligations.

- If the officer finds that the employer has not met their duties, the officer will take steps to encourage the employer to fulfill their obligations.

In some cases, if an employer will revisit the decision in its work refusal report, the officer can work with the parties to resolve the matter.

OHS work refusal investigations

If the officer finds that the work site parties met their work refusal obligations, and the worker still disagrees with the employer's final decision, the officer will investigate if there is an undue hazard.

During the investigation, the officer may inspect the work site, ask for information and documents and/or speak to individuals.

After the officer finishes the investigation, they give a report to the refusing worker, the employer and the HSC or HS representative (if there is one). The OHS report includes a summary of the officer's decision, findings and rationale.

- If an undue hazard does not exist, the officer informs the worker of that finding.
- If an undue hazard exists, the employer must take immediate action to remedy it. (When this is complete, the officer informs the worker of the outcome.)

The employer or worker can appeal the officer's determination of whether an undue hazard exists with the [Alberta Labour Relations Board](#) (ALRB). The ALRB makes its decision based on whether or not the officer's determination in the work refusal was reasonable.

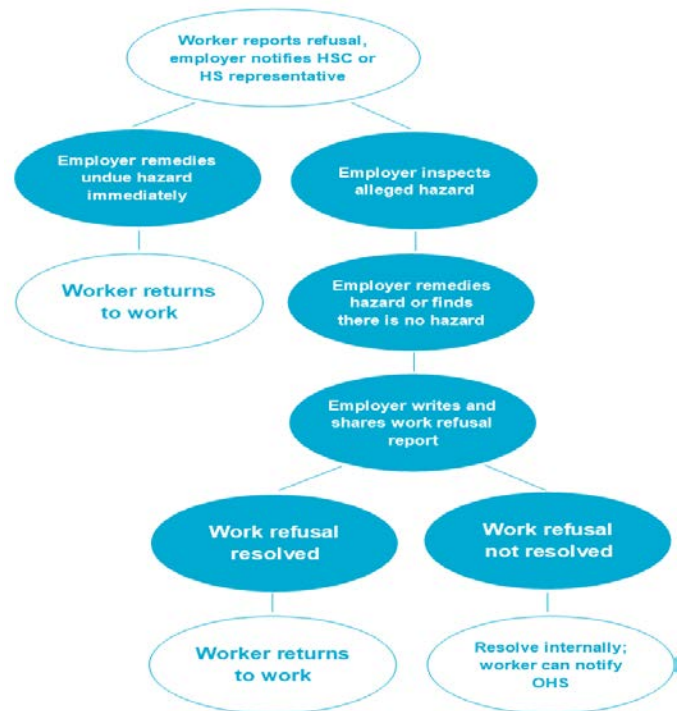


Figure 1: Outline of worker and employer section 17 work refusal duties.

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Contact us

OHS Contact Centre

Anywhere in Alberta

- 1-866-415-8690

Edmonton and surrounding area

- 780-415-8690

Deaf or hearing impaired

- 1-800-232-7215 (Alberta)
- 780-427-9999 (Edmonton)

Notify OHS of health and safety concerns

alberta.ca/file-complaint-online.aspx

Call the OHS Contact Centre if you have concerns that involve immediate danger to a person on a work site.

Report a workplace incident to OHS

alberta.ca/ohs-complaints-incidents.aspx

Website

alberta.ca/ohs

Get copies of the *OHS Act*, Regulation and Code

Alberta Queen's Printer

qp.gov.ab.ca

OHS

alberta.ca/ohs-act-regulation-code.aspx

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