

## An Employees Right to Refuse Work

### What is the right of refusal, or right to refuse to perform unsafe work?

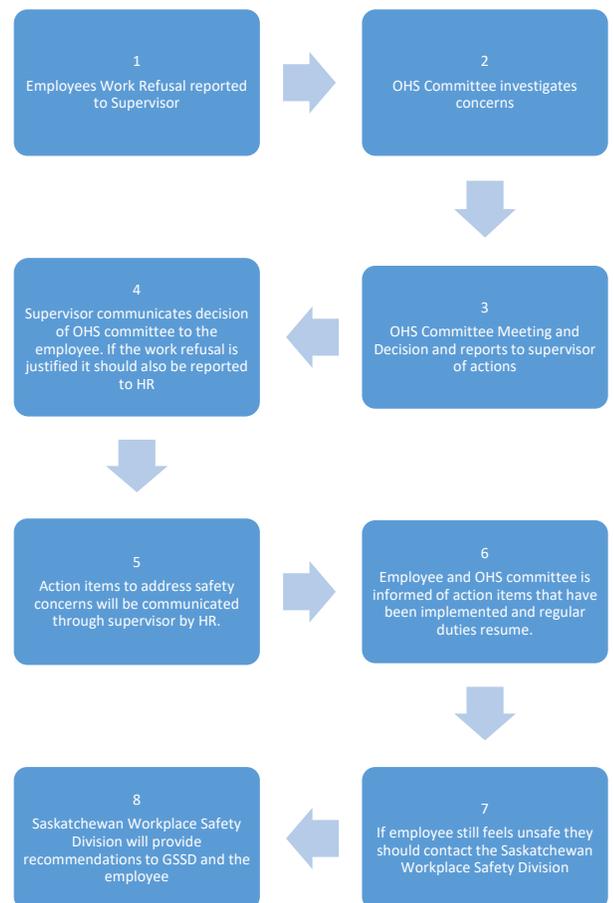
According to the Saskatchewan Employment Act and Occupational Health and Safety, all workers have the right to refuse to do any specific job or task which they **have reasonable grounds to believe is unusually dangerous**. The danger may be to the employee or to any other person. An unusual danger could include:

- A danger that is not normal for the job (e.g., repairing a roof in dangerous winds);
- A danger that would normally stop work (e.g., operating a forklift with a flat tire); or
- A situation for which you are not properly trained, equipped, or experienced to do the work assigned (e.g., cleaning windows on a tall building with no fall protection equipment or training).

An employee cannot be fired or disciplined for using this right. Occupational Health and Safety provides procedures to be followed when refusing.

### What procedure is to be followed?

1. Tell the supervisor that you are refusing work because of a health or safety concern. The employee should not leave the worksite without the supervisor's permission. The employee's pay will not be affected.
2. The supervisor should contact their local occupational health and safety committee (OHS). The OHS committee will investigate the refusal.
3. The OHS committee makes a decision to determine if there is reasonable grounds to refuse the work. (The vote must be unanimous for or against the refusal)
4. The OHS committee should communicate to the supervisor through the regular meeting form of the work refusal and their decision. It should include specific codes from the OHS manual. This will be communicated back to the employee regardless of the decision.
5. If the work refusal is supported, the concern will be received by HR and an investigation of the work refusal will occur. Action items will be communicated through the supervisor to ensure the workplace is safe.
6. If the employee(s) who brought forward the concern still feel the workplace is unsafe, they are encouraged to contact Ministry of Labour Relations and Workplace Safety OHS Division. They can access LWOP while they await a decision.
7. The officer will investigate the refusal and rule on the matter. Action items will be communicated to GSSD from the Ministry of Labour. If GSSD is found to have an unsafe workspace by the provincial Health and Safety Officer, pay will be backdated to the original date when the refusal was submitted.





## Can an employee refuse to perform work based on the COVID-19 pandemic?

It is possible that the COVID-19 pandemic may create the basis for a legitimate work refusal. An employee's right to refuse to perform work as a result of COVID-19 will be contingent upon answers (but not limited to) the following questions. The questions below are intended as a guide for local OHS committees when considering 'work-refusals' from employees. If there are any answers of **'yes'** you should be in discussion your supervisor.

- Is the worker of an age that puts them at a greater risk if infected?
- Does the worker have underlying health concerns that put them at greater risk if infected?
- Does the type of workplace where the worker usually performs their functions have a high risk of containing the virus?
- Are the job duties being assigned outside of the normal duties or tasks of the position?
- Do the number of workers at the workplace prohibit social distancing? (2 metres)
- Is the workplace unsafe even with increased hygiene and personal protective equipment?
- Does the workplace have an employee/student who has been diagnosed with COVID-19?
- Are there any other factually relevant considerations in assessing whether there is a hazard, a risk, a danger, etc?

What is the state of the COVID-19 situation in the worker's specific location at the time the refusal to work is being exercised?

Employees cannot be fired or disciplined for using this right. Occupational Health and Safety provides procedures to be followed when refusing. Contact the Superintendent of HR with questions.