



# Saskatchewan Employment Act (SEA) Section 3.31: The Right to Refuse

## Right to Refuse *SEA, section 3-31.*

A worker has the right to refuse to do any specific job or task which they have reasonable grounds to believe is unusually dangerous to themselves or to the health or safety of any other person at the place of employment.

**Note:** Workers can't refuse as a group. The right to refuse is an individual worker's right.

Under the *SEA*, workers who exercise their right to refuse are legally protected. That is, an employer can't fire or discipline a worker who refuses to do unusually dangerous work.

### Steps to Refuse Unusually Dangerous Work

A worker should never do work that they aren't trained, equipped or experienced to do in unusually dangerous situations. An unusual danger could include:

- A danger that is not normal for the job;
- A danger that would normally stop work; or
- A situation for which you are not properly trained, equipped, or experienced to do the work assigned.

Workers should follow these steps to refuse work they believe is unusually dangerous:

1. Tell your employer/supervisor that you are refusing the specific job or task because of an occupational health and safety (OH&S) concern.
  - Your employer/supervisor can re-assign you to a different job or task until the work refusal is resolved. Don't leave the worksite without your employer's permission.
2. If you can't resolve your concern with the employer/supervisor, contact your Occupational Health Committee (OHC).
3. If the concern can't be resolved within your workplace, contact an Occupational Health Officer (OHO) at the OHS Division at 1-800-567-7233. When you call, ask for the Duty Officer. The Duty Officer is an OHO who is assigned to answer the public's questions about the OHS legislation via telephone or e-mail and may be able to help. **Remember, you can always call the SEIU-West Member Resource Centre (MRC) if you have any questions or concerns. Contact the MRC through our website <https://www.seiuwest.ca/contact> or by phone 1-888-999-7348 ext. 2298**



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## Detailed notes in a refusal to work

The OHC should ensure these steps have been followed in a refusal to work:

### 1. Refusing worker must inform the supervisor.

The worker should tell the supervisor that the refusal is because of an OH&S concern. Most refusals are resolved at this point. The refusing worker should not leave the workplace without the employer's direction (that way, pay is maintained).

*Reassignment* – The supervisor has the right to assign the refusing worker to other work (at no loss in pay or benefits) until the matter is resolved (SEA 3-1(1)(i)(ii)).

*Replacement workers* – Under SEA 3-34, an employer cannot assign another worker to the disputed job unless the replacement worker is advised in writing about:

- The refusal and the reasons for it;
- Why the employer believes the replacement worker can do the disputed job safely;
- The right of the replacement worker to refuse; and
- The steps to follow when exercising this right.

The employer must also inform workers who are expected to do the same job on other shifts about the refusal and the reasons for it.

### 2. If that doesn't produce a resolve then involve the OHC co-chairs.

If the supervisor and worker cannot resolve the refusal, ask OHC co-chairs to help with a resolve. The co-chairs have no role in determining whether or not the disputed job is unusually dangerous, only the process can determine that.

### 3. Hold an emergency OHC meeting.

If the co-chairs cannot resolve the refusal:

- Convene an emergency OHC meeting and have the OHC investigate the refusal. If necessary, have the OHC rule on whether or not the work is unusually dangerous. This ruling must be made by a vote of a quorum. A quorum means:
  - Half of all the OHC members must be present;
  - Half of all OHC members present must be workers; and
  - At least one management member must be present.
- The OHC will rule: "Does worker have reasonable grounds to believe work is unusually dangerous?" A unanimous vote by a quorum is required to rule on a



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refusal. If unanimous ruling is for the refusing worker, the OHC will provide recommendations to employer to correct the concern. If unanimous ruling is against the refusing worker, the OHC will write to worker why they ruled against the refusal and that worker must go back to work.

- Document the investigation. During the investigation, review applicable legislation, work procedures, product documentation, etc. OHOs may need to review the OHC's investigation file.
- Send recommendations for corrective action to the employer. Include a summary of the investigation with the meeting minutes. The employer should act and report to the OHC.
- Look for underlying causes of the refusal. The OHC can help discover underlying problems leading to the refusal and prevent others.

#### **4. If OHC cannot agree (i.e., no unanimous vote) or the refusing worker or employer is not satisfied with OHC decision, contact the OHS Division.**

During a refusal to work, contact OHS Division if the matter has not been resolved, the refusing worker or employer is not satisfied with the OHC's decision, or the OHC cannot agree on how to resolve the refusal.

In such cases, an OHO must investigate and make a ruling. The worker may continue the refusal until the OHO rules. The OHO will provide a written decision to the refusing worker, each co-chair and the employer.

*SEA*, Part III, Division 8 allows anyone affected directly by an OHO's decision to appeal it to OHS Division. The appeal does not suspend the implementation of the OHO's decision. *SEA*, Part IV outlines a further appeal process.

#### **5. Communicate the results to workers.**

Summarize the results of the investigation on OHC minutes and post for the information of workers. Everyone involved should be kept informed during the investigation.

#### **6. Monitor the effectiveness of corrective action.**

The effectiveness of corrective action should be checked by the OHC during inspections, conversations with workers and other activities – this should all be documented.



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## Procedural summary for investigating a refusal to work

