

Corporate Policies

SECTION: HEALTH AND SAFETY – Leadership and Administration	POLICY # 12.1.3
SUBJECT: Work Refusal	
EFFECTIVE: April 30, 2010	REPLACES: 12.1.3
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APPROVED BY: Amalia Liadis	PROCEDURAL UPDATES: Name/Date: November 25, 2010

POLICY STATEMENT:

An employee has the right to refuse to work or do particular work when he/she has reason to believe that the equipment, physical conditions or other work related circumstances, such as workplace violence, are likely to endanger himself or other employees. No employee can be disciplined because he/she exercised his/her right to refuse unsafe work under the *Occupational Health and Safety Act*.

The right to refuse unsafe work does not apply to matters dealing with personal harassment.

PURPOSE:

To establish a procedure to be followed in the event that an employee refuses to work because he/she believes the work is likely to endanger himself, herself or another employee and to ensure compliance with the *Occupational Health and Safety Act* respecting the right to refuse unsafe work.

SCOPE:

All employees of the Corporation, with the exception of Emergency Personnel such as Fire Services, who may not refuse work when:

- 1) there is a physical condition, equipment, machine, device or thing in the workplace may endanger a worker that is inherent in the worker's work or is a normal condition of the worker's employment; or
- 2) the worker's refusal to work would directly endanger the life, health or safety of another person as described in the *Occupational Health and Safety Act*.

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DEFINITIONS:

Workplace violence	Means, (a) The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker, (b) An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker, (c) A statement or behavior that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.
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STEP 1: INTERNAL RESOLUTION

1. EMPLOYEE RESPONSIBILITIES

- a. Upon refusing work, immediately report the circumstances leading to the work refusal to the supervisor.
- b. Explain your reason for refusing work – be *specific*.
- c. Remain in a safe place, as near as reasonably possible, to the workstation until the investigation takes place.
- d. Be available to participate in the work refusal investigation with supervisor and Joint Health and Safety Committee (JHSC) worker member.
- e. Return to work, if you are satisfied with the results of the investigation, and feel that your safety is no longer threatened.

2. SUPERVISOR RESPONSIBILITIES

- a. Upon an employee reporting a work refusal, immediately request employee to *specifically* explain why he is refusing work – request employee to put concerns in writing.
- b. If the work refusal is not safety related, the work refusal stops, and the employee returns to work.
- c. If the work refusal is safety related, the work ceases immediately.
- d. Contact a worker JHSC, and ask that they attend the work refusal location right away.
- e. **IMMEDIATELY** conduct an investigation of the matter with the refusing employee and JHSC worker member.

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- f. Contact Health and Safety Services for assistance in resolution, if required.
 - g. Direct employee to return to work, if the employee is satisfied with the remedial action taken to resolve the safety concern.
 - h. Document all the details of the work refusal.
3. JOINT HEALTH & SAFETY COMMITTEE (WORKER REPRESENTATIVE) RESPONSIBILITIES
- a. Immediately attend the work refusal location.
 - b. Participate in the refusal investigation at all steps.
 - c. Be present if supervisor is reassigning the refused work to another employee.
 - d. Document all the details of the work refusal.

STEP 2: EXTERNAL RESOLUTION

The employee may not be satisfied with the remedial action that is taken. At this point, the refusing employee may continue to refuse work if he/she “has reasonable grounds to believe” that the work is likely to endanger. At this point, a Ministry of Labour (MOL) inspector must be called in to investigate the matter. The MOL will be contacted and accompanied jointly by the supervisor, refusing employee, JHSC member, and Health and Safety Services.

1. EMPLOYEE RESPONSIBILITIES

- a. Pending the arrival of the MOL inspector, remain in a safe place as reasonably near as possible to the workstation, unless assigned reasonable alternate work.
- b. Participate in the refusal investigation with the MOL inspector, JHSC worker member, supervisor and Health and Safety Services representative.
- c. Comply with the MOL inspector’s written order(s).

2. SUPERVISOR RESPONSIBILITIES

Contact Health and Safety Advisor during regular business hours as follows via 905.874.2158, 905.874.3562, 905.874.2161 or 905.874.2412.

Note: For work refusals occurring after hours, Health and Safety Advisor can be contacted through the Call Centre at 905-874-2000.

- a. Assign the refusing employee alternative work within job description while waiting for the MOL inspector.

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- b. Pending the MOL inspector's investigation, may ask another employee to perform the work that was refused. The employee must be advised of the other employee's refusal and of his reasons for the refusal in the presence of the JHSC worker member.
- c. Exercise care not to intentionally penalize any employee for exercising, or seeking to exercise their rights under the Act.
- d. Participate in the investigation with the MOL inspector, JHSC worker member, refusing employee and Health and Safety Services representative.
- e. Comply with the inspector's written order(s).
- f. Document all the details of the work refusal.

3. HEALTH AND SAFETY SERVICES RESPONSIBILITIES

- a. Provide any guidance and advice, if necessary, to resolve the work refusal.
- b. Attend the work refusal location.
- c. After preliminary investigation and discussion with all parties, contact the **Ministry of Labour at 1.877.202.0008** jointly with all parties if there is no resolution to the work refusal.
- d. Participate in the investigation with the MOL inspector, refusing employee, JHSC worker member and supervisor, at Step 2.
- e. Document all the details of the work refusal.

4. JOINT HEALTH & SAFETY COMMITTEE (WORKER REPRESENTATIVE) RESPONSIBILITIES

- a. Immediately attend the work refusal location.
- b. Participate in the refusal investigation at all steps.
- c. Be present if supervisor is reassigning the refused work to another employee.
- d. Document all the details of the work refusal.

ACCOUNTABILITY:

All employees of the Corporation are accountable to adhere to this policy as outlined.

ADMINISTRATION:

Health and Safety Services, Human Resources, City of Brampton, 1st Flr-2 Wellington St. West
Brampton, Ontario L6Y 4R2

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CONTACT:

Health and Safety Advisor, Human Resources Division. 905.874.3562.