

# Right to Refuse Work Policy



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## Standard:

As part of the Bernard Rochefort Ltd. Orientation Process all employees are to be aware of their right to refuse work (OHS Act Section 43-3). This process will be explained to workers and available for their review during the orientation process, will be posted on the shop safety board and will be posted at all site trailers or in foreman’s vehicles. The Occupational Health and Safety Act and Regulations for Construction Projects note the following:

### Section 43 (3)

A worker may refuse to work or do particular work where he or she has reason to believe that,

- a) any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker;
- b) the physical condition of the workplace or the part thereof in which he or she works or is to work (b.1) workplace violence is likely to endanger himself or herself; or
- c) any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself, herself or another worker.

(4) Upon refusing to work or do particular work, the worker shall promptly report the circumstances of the refusal to the worker’s employer or supervisor who shall forthwith investigate the report in the presence of the worker, and if there is such, in the presence of one of,

- a) a committee member who represents workers, if any;
- b) a health and safety representative, if any; or
- c) a worker who because of knowledge, experience and training is selected by a trade union that represents the worker, or if there is no trade union, is selected by the workers to represent them,

Who shall be made available and who shall attend without delay.

(5) Until the investigation is completed, the worker shall remain in a safe place near his or her work station.

(a) in a safe place that is as near as reasonably possible to his or her work station; and

(b) available to the employer or supervisor for the purposes of the investigation.

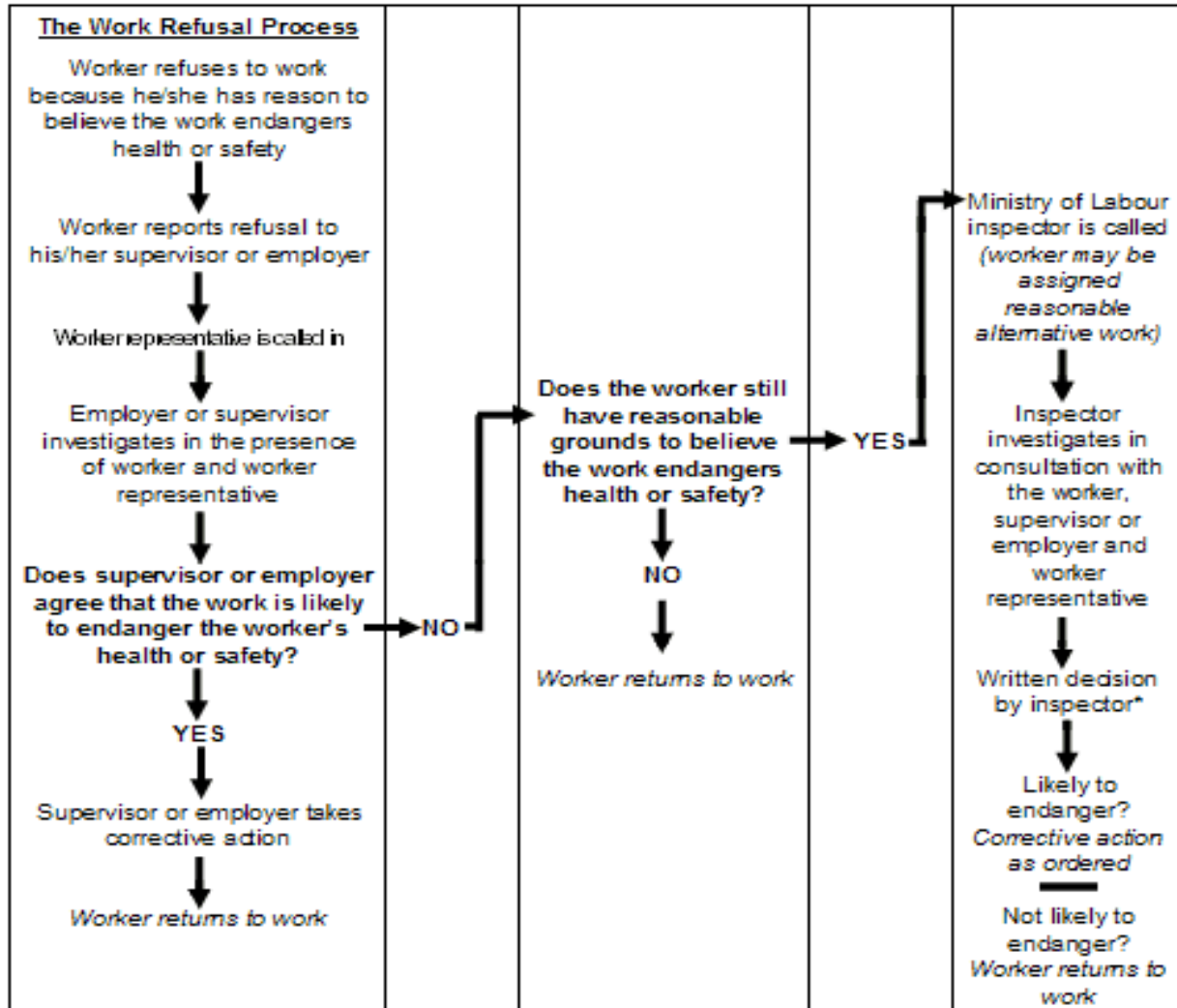
(6) where, following the investigation or any steps taken to deal with the circumstances that caused the worker to refuse to work or do particular work, the worker has reasonable grounds to believe that ,

- a) the equipment, machinery, device or thing that was the cause of the refusal to work or do particular work continues to be likely to endanger himself, herself or another worker;
- b) the physical condition of the workplace or the part thereof in which he or she works continues to be likely to endanger himself or herself; or
- c) any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or its regulations and such contravention continues to be likely to endanger himself, herself or another worker,

# Right to Refuse Work Policy



The worker may refuse to do the work or do the particular work and the employer or the worker or a person on behalf of the employer or worker shall cause an inspector to be notified thereof. RSO 1990 c.0.1,s.43(3-6)



\*Inspector's order can be appealed

Bernard Rochefort Ltd. advises that:

- Once this process has taken place a Ministry Inspector will arrive to inspect the situation with those parties noted above present.
- The Inspector will decide if the aspect of work questioned is likely to endanger the worker or another person.
- The inspector will give his decision in writing to the employer and worker and or rep in a reasonable time period.
- Subjective to a collective agreement, if any, the worker shall remain at a safe place near his or her work station until a decision is rendered during normal working hours unless the employer

# Right to Refuse Work Policy



assigns him/her to reasonable alternative work during such hours; or gives other directions to the worker (please note section 43 of the OHSA)

- Section 43(11) of OHSA states that pending the investigation and decision of the inspector, no worker shall be assigned to use or operate the equipment, machine, device or thing or to work in the workplace or in the part of the workplace being investigated unless, in the presence of a person described in subsection (12), the worker has been advised of the other worker's refusal and of his or her reasons for the refusal.

(12) The person referred to in subsection (11) must be,

(a) a committee member who represents workers and, if possible, who is a certified member;

(b) a health and safety representative; or

(c) a worker who because of his or her knowledge, experience and training is selected by the trade union that represents the worker or, if there is no trade union, by the workers to represent them

Dangerous circumstances defined under the Occupational Health and Safety Act are found in Section 44 (1) and in part are defined as a provision of the Act or regulations that are contravened, the contravention poses a danger or hazard to the worker, the danger or hazard is such that any delay in controlling it may seriously endanger a worker.

## Reprisals are prohibited:

Section 50 (1) states

No Employer or person acting on behalf of an employer shall;

- a) dismiss or threaten to dismiss a worker;
- b) discipline or suspend or threaten to discipline or suspend a worker;
- c) impose any penalty upon a worker, or;
- d) intimidate or coerce a worker

Because the worker has acted in compliance with the Act or the regulations or an order made there under, has sought the enforcement of this Act, or the regulations or has given evidence in a proceeding in respect of the enforcement of this Act or the regulations or in an inquest under the Coroners Act.

**The above information will be communicated to each worker as part of the orientation process.**

## Approval & Acknowledgement:

A handwritten signature in blue ink, consisting of a large, stylized 'R' followed by a horizontal line extending to the right.

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Rhéaume Rochefort

Feb 1<sup>st</sup>, 2018

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Date:

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