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Refusing Unsafe Work* :

Q. When can an employee refuse to work?

- A. Any employee can refuse to work if she/he has reason to believe that one or more of the following is true:
1. Any machine, equipment or tool that the employee is using or is told to use is likely to endanger himself or herself or another employee;
 2. The physical condition of the workplace or work station is likely to endanger the employee; and/or
 3. Any machine, equipment or tool that the employee is using, or the physical condition of the workplace, is in violation of the *Occupational Health and Safety Act* or its regulations, and is likely to endanger herself/himself or another employee.

Q. Do all AMAPCEO members have the same right to refuse work?

- A. Under the *Occupational Health and Safety Act*, some employees (e.g., fire fighters; employees in correctional facilities; health care employees in young offender facilities, hospitals, psychiatric facilities, facilities for the developmentally disabled, licensed laboratories, etc.) have only a limited right to refuse work. AMAPCEO members in such positions, are **not** entitled to refuse work, if the danger identified in the work is a normal part of the job, or if a refusal to perform such work would directly endanger the life, health or safety of another employee or someone else.

Q. What is the process for refusing unsafe work?

- A. The employee who wants to refuse work, must immediately communicate this to his/her supervisor or employer representative that the work is being refused and explain the reasons for the refusal. We also request that AMAPCEO members who do refuse work, also inform the AMAPCEO rep on the local joint Health and Safety committee about the refusal. In the absence of an AMAPCEO Health and Safety rep, contact the appropriate AMAPCEO AMERC Co-chair, or contact you're an AMAPCEO staff officer at the AMAPCEO corporate office.

Once advised of an employee's refusal to work, the supervisor or employer representative must investigate the situation, in the presence of both the employee who has refused and a joint health and safety committee member who represents the employees.

If there is no AMAPCEO Health and Safety committee member, or if the employee representative normally called upon is a striking OPSEU member, then the employer rep. may attempt to investigate and resolve the matter independently.

If after the investigation is completed, the refusing employee is still not satisfied that the danger has been removed, and the work continues to be unsafe, i.e., he/she still refusing

to work, the employer rep. must contact the Ministry of Labour for a health and safety inspector to be called-in to investigate the work refusal.

While waiting for the inspector to investigate the work refusal, the refusing employee continues to get paid, but must remain at the workplace. Until such time as the inspector has concluded his/her investigation, the employer may assign other work tasks to the refusing employee.

If the inspector finds that the work being refused is not likely to endanger anyone, then the refusing employee is expected to return to work and perform the work that he/she initially deemed was unsafe. *Note: The inspector's decision must be provided in writing to both the refusing employee, the employer rep. and the employee's representative, (if one is present).*

Q. Can an employee be disciplined for refusing to do unsafe work?

A. No. Under the Act, the employer is not permitted to penalize, dismiss, discipline, suspend or threaten an employee who is exercising his/her right to refuse unsafe work, even if an Ministry of Labour inspector ultimately determines that the work is safe. Should your supervisor/manager attempt to do any of the above, please notify the AMAPCEO office immediately.

Q. What do I do if I have questions or concerns about refusing unsafe work or understanding my rights to refuse such work?

A. Should you have any questions or concerns, contact an AMAPCEO staff officer.

* Information extracted from *A Guide to the Occupational Health and Safety Act, 1998*
Ministry of Labour