

OTHER CONSIDERATIONS

During the period of refusal, your employer must continue to pay your remuneration, as well as that of the union representative and any other worker affected by the work stoppage.

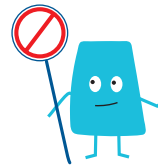
- All other workers affected by the work stoppage must also remain available for work on the premises. They are deemed to be at work, as is the person exercising his or her right of refusal. The employer may also assign them to other duties that they are reasonably capable of performing.
- **No sanctions** (suspension, dismissal, transfer, disciplinary measure or discriminatory measure) may be taken against a worker (or his or her union representative) because the worker exercised his or her right of refusal, unless the right was exercised in an abusive manner.

RECOURSE

If the employer imposes disciplinary measures, you have two recourses:

- **grievance procedures, as stipulated in the collective agreement**
- OR
- a complaint before the CNESST.

For the second recourse, a **written** complaint must be made by the worker within **30 days** of the disciplinary measures being imposed. The burden of proof falls on the employer (not on the worker).



**Prevent
and cure**



Centrale des syndicats
du Québec

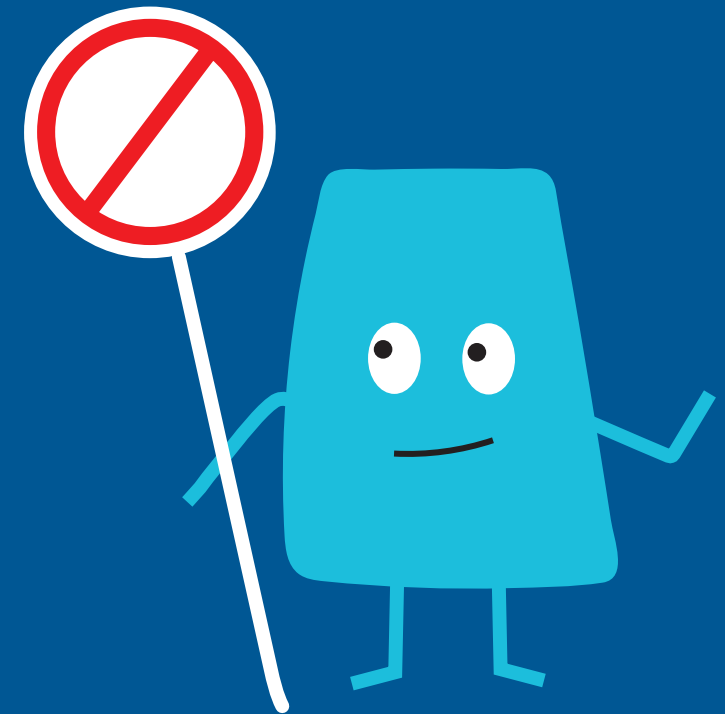
CSQ

Centrale des syndicats du Québec (CSQ)
Occupational Health and Safety

9405 Sherbrooke Street East, Montreal, Québec H1L 6P3
Telephone: 514 356-8888 ◦ Fax: 514 356-9999
E-Mail: sst@lacsq.org

For advice and solutions, consult your union or
lacsq.org/sst

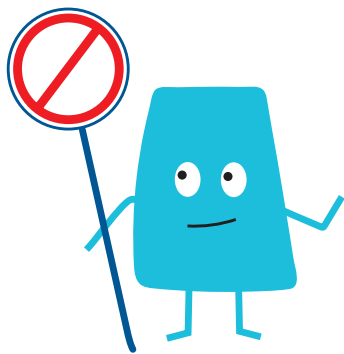
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**THE RIGHT
OF REFUSAL**



CSQ



WHEN CAN THE RIGHT OF REFUSAL BE EXERCISED?

1 As soon as any danger is present

The danger may be immediate, or its nature may be such as to cause other dangers.

Danger exists when a situation puts us or others at risk.

2 When there are reasonable grounds to believe that there is danger

In the event of a work refusal, we have to be able to explain the grounds for it. Examples:

- working conditions that are not in compliance with standard regulations
- extreme cold
- insufficient supply of fresh air, poor ventilation
- lack of personal safety equipment
- faulty equipment
- abnormal working conditions

THE RIGHT OF REFUSAL CANNOT BE EXERCISED

- If the refusal to perform the work puts the life, health, safety or physical well-being of another person in immediate danger.
- If the conditions under which the work is to be performed are ordinary conditions in this kind of work.
- The right of refusal cannot be exercised by a union on behalf of its members; it is an individual right (although one which may nonetheless be exercised by many workers at the same time).

HOW TO EXERCISE THE RIGHT OF REFUSAL

Steps to follow:

- 1 **Immediately** notify your immediate supervisor or any representative or management.
- 2 Give the reasons for your refusal.
- 3 **Remain available for work on the premises.** The employer may temporarily assign you to other duties that you are capable of performing, under the terms provided in the collective agreement.
- 4 Make sure that the employer (or his representative) notifies the safety representative. If there is no safety representative, **notify your union representative yourself**, or if this is impossible, notify another worker of your choice.
- 5 Make sure that the employer doesn't get another person to do your work, **unless** the grounds for your refusal fail to apply to the other worker. In that case, the union representative's **agreement** is required. The employer must **inform** the other worker of the right of refusal being exercised.

"A worker has a right to refuse to perform particular work if he has reasonable grounds to believe that the performance of that work would expose him to danger to his health, safety or physical well-being, or would expose another person to a similar danger" (section 12 of an Act respecting organizational health and safety). No loss of salary should ensue.

THE DECISION

Three possibilities:

- 1 Both management **and** the union representative consider the refusal to be justified: the necessary corrections must then be made before the worker returns to his or her work.
- 2 Management **and** the union representative don't agree as to the danger or the necessary correctives: one or the other party must then request the intervention of a CNESST inspector (Commission des normes, de l'équité, de la santé et de la sécurité du travail).
- 3 Management **and** the union representative **feel that there is no risk.** You can then either return to your work, or maintain your refusal and call an inspector. In that case, it's important that you fully grasp the arguments put forward by your union representative.

WHEN A CNESST INSPECTOR INTERVENES...

- The inspector's decision must be carried out **immediately**, even if the parties disagree.

This decision may be:

- to require that corrective measures be taken or
- to order a return to work.
- The decision can be contested by asking the CNESST to review it within ten (10) days of receiving notification.
- The decision rendered following review by the CNESST is binding, but it may be appealed within a period of ten (10) days before the Tribunal administratif du travail (TAT), whose decision is final (without appeal).

This leaflet summarized the right of refusal and the recourse available contained in an Act respecting industrial accidents and occupational diseases and in an Act respecting occupational health and safety. Before exercising a right or recourse, one should refer to the official text of the Acts.