

Section 4

Legislative Requirements

Right to Refuse

Dedicated Staffing Services accepts its responsibilities and is committed to complying with all the requirements of applicable Health and Safety legislation.

To this end we shall endeavor to ensure that management, the Health and Safety Committee and individual workers (associates) are knowledgeable with those sections of the applicable health and safety legislation that directly affects them.

Procedure

Section 43(3), (a) (b) (c) of the Occupational Health and Safety Act and Regulation states that a worker (associate) has the right to refuse work if he/she has reason to believe that:

- Any equipment, machine and device or thing the worker is to use or operate is likely to endanger himself, herself or another worker,
- The physical condition of the workplace or the part thereof in which he or she works or is to work is likely to endanger himself/herself or another worker; or,
- Any equipment, machine, device or thing he or she is to use or operate of 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 the Regulations and such contravention is likely to endanger himself, herself or another worker. R.S.O. 1990, C.O.1, s. 43 (3).

Stage 1:

The worker (associate) shall report the circumstances of the work refusal to his on-site supervisor and a Dedicated Staffing Services representative. They shall then investigate the report in the presence of the worker (associate), a Health and Safety Committee member, or a worker selected by the workers.

If agreement is reached the worker (associate) returns to work.

If agreement is not reached and the worker (associate) has reasonable grounds to believe that the work is still likely to endanger himself/herself or other workers (associates), the next steps will follow.

Stage 2: The worker (associate) continues to refuse and is to remain in a safe place or, if appropriate, is assigned to reasonable alternative work or given other directions pending investigation and decision.

The employer notifies a Joint Health and Safety Committee (JHSC) Representative.

The worker (associate) or employer notifies an MOL Inspector. During this refusal, the disputed machine, workplace or assignment is not to be used or undertaken pending investigation and decision.

The MOL Inspector conducts his/her investigation in the presence of the worker (associate), employer and worker representative. The MOL Inspector shall give his/her decision in writing to the worker (associate), employer, or worker representative as soon as possible.

Note: As per Section 43 of the Act, reprisals are prohibited, Section 50.

Unsafe Working Conditions - Health and Safety Policy/Procedure

All workers, including temporary, contract and elect-to-work associates, are given literature and are advised during orientation about the following rights and responsibilities regarding workplace hazards and unsafe work.

- Workers (associates) must report hazardous working conditions to the on-site supervisor, Dedicated Staffing Services consultant or manager. The representative from Dedicated Staffing Services must escalate the issue to his/her manager and/or the Health and Safety Risk Manager to initiate further investigation.
- When a worker (associate) exercises his/her right refuse unsafe work, he/she must stop working and advise the on-site supervisor and a staff member from Dedicated Staffing Services immediately. The Dedicated Staffing Services staff member will notify the Health and Safety Risk Managers and all internal management. The Joint Health and Safety Committee (JHSC) will be advised of all work refusals related to unsafe work.

The Health and Safety Risk Managers, internal managers and JHSC members abide by the following guidelines when they become involved in a worker complaint or concern:

- Deal with concerns promptly.
- Concentrate on resolving health and safety matters.
- Provide prompt and on-going information to the concerned individual - make sure the worker (associate) is kept up to date on all measures being taken to resolve his/her complaint or concern.

Right to Refuse Work as per Occupational Health and Safety Act 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 he 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 is likely to endanger himself or herself; or
- c) Any equipment, machine, device or thing he or she is to use to 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 the regulations and such contravention is likely to endanger himself or herself or another worker."

Imminent Danger means:

- A danger that is not normal for that occupation, or
- A danger under which a person engaged in that occupation would not normally carry out the work.

Worker (Associate) Acknowledgement

I have read the information in this document and understand my right to refuse unsafe work. I have reviewed the flowchart explaining the procedure for work refusal related to unsafe work. I have asked all questions and I am satisfied with the explanations given to me. I understand that I have the opportunity to refer to the Occupational Health and Safety Act and Regulations at Dedicated Staffing Services at any time and may request a copy of the procedure flowchart.

I understand that I am responsible to report to Dedicated Staffing Services when I am assigned a task at the workplace that does not agree with the original job description provided by Dedicated Staffing Services. I will not perform this work without prior authorization from Dedicated Staffing Services. I will not perform any work that includes operating machinery, power equipment, forklift, vehicles, or work that is hazardous, or work for which I have not been properly oriented or trained or assigned by Dedicated Staffing Services at time of placement.

Worker (Associate) Name (please print)

Signature of Worker (Associate)

Date

Witness (please print)

Signature

Date

(Please refer to Flow Chart on the next page)

Overtime Contract for Worker (Associates)

I understand that I am an elect-to-work employee and there are no guarantees of length of assignment.

I further understand that I may be asked to work up to 48 hours per week.

For work over 48 and under 60 hours per week, by signing below I am entering into an agreement that I accept overtime. The overtime can be greater than 8 hours per day and greater than 48 in a week. I also understand that if I choose not to accept overtime over 48 hours per week that is my choice and I will not sign in that case. I have received a copy of the legislation as well as copy of this signed document (as per the Employment Standards Act section 17 (5) subsection 2 or in clause 3 (a) and 21.1 2004 c21, s, 4.).

I further understand that all hours in excess of 44 are paid at time-and-a-half as per the Employment Standards Act.

I also understand that any worker (associate), including me, can cancel this agreement by giving the employer two weeks written notice while employers need to give the worker (associate) reasonable notice.

I acknowledge receipt of this documentation.

Worker (Associate) Name (please print)

Signature of Worker (Associate)

Date

Vacation Pay Agreement for Associates

Please select ONE of the following boxes.

4% paid weekly

Vacation pay accrued to be paid prior to the vacation or annually

Worker (Associate) Name (please print)

Signature of Worker (Associate)

Date

Information for Employees

About hours of work and overtime pay

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This document is also available in different languages.

This document is produced by the Director of Employment Standards as required by Section 21.1 of the Employment Standards Act, 2000. Please read this document carefully and make sure you understand your rights. If you have any questions, contact the Ministry of Labour.

These are the general rules in Ontario about

- Hours of work and
- Overtime pay

There are exceptions and special rules for some employees under the Employment Standards Act, 2000.

Maximum Daily Hours of Work

You do not have to work more than:

- 8 hours a day
or
- The number of hours in your regular work day, if it is more than 8.

For more information, contact the Ministry of Labour toll-free at 1-800-531-5551.

If you choose to, you can agree with your employer in writing to work more hours. If you do not want to work more hours, you do not have to sign an agreement.

Maximum Weekly Hours of Work

You do not have to work more than 48 hours per week.

If you choose to, you can agree with the employer in writing to work more hours.

If you sign an agreement, your employer must also get approval from the Ministry of Labour's Director of Employment Standards. If you do not want to work more hours, you do not have to sign an agreement.

If you agree in writing to work more than:

- 48 hours a week, up to 60 hours a week – Your employer can ask you to start working the extra hours 30 days after applying for the Director's approval, as long as certain conditions are met.
- 60 hours a week – Your employer must have the Director's approval before you can start working more than 60 hours a week.

You can not work more than the number of hours approved by the Director. This may be fewer than the number of hours you agreed to work.

Your employer must post the application for the Director's approval where you can see it. If and when your employer gets approval from the Director, the approval form must then be posted where you can see it. You can cancel an agreement to work extra daily or weekly hours by giving your employer 2 weeks written notice. Your employer can also cancel an agreement by giving you reasonable notice.

Overtime Pay

For every hour you worked over 44 hours a week, your employer must pay you at least 1½ times your regular rate of pay ("time and a half"). Even if you agree in writing to work more than 48 hours per week, your employer must pay you overtime for every hour you work over 44 hours a week.

You can agree with your employer in writing to average the hours you work over periods of two or more weeks to calculate overtime pay. If you sign an agreement, your employer must also get approval from the Ministry of Labour's Director of Employment Standards. If you do not want to have your overtime hours averaged, you do not have to sign an agreement.

These agreements must have an expiry date and cannot be cancelled unless both you and your employer agree.

Rest Periods and Eating Period

Your employer must give you at least:

- 11 consecutive hours off work each day. A "day" is a 24 hour period – it does not have to be a calendar day;
- 8 hours off work between shifts (unless the total time worked on the shifts is more than 13 hours or you and your employer have otherwise agreed in writing); and
- 24 consecutive hours off work each work week, or 48 consecutive hours off every two work weeks.

You must also get a 30-minute eating period after no more than five hours of work. You can agree with your employer to split this eating period into two shorter breaks.

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A Member of The Staffing Edge Inc.

Your Rights are Protected

Your employer cannot intimidate you, fire you, suspend you, reduce your pay, punish you in any way, or threaten any of these actions because you:

- Refuse to work more than the maximum daily or weekly hours of work;
- Refuse to sign an agreement to work more than the maximum daily or weekly hours of work;
- Refuse to work more than the number of extra hours you agreed to work; or
- Ask questions about your rights under the ESA.

If this happens, contact the Ministry of Labour. Ministry staff can help you understand your rights, answer your questions and investigate your complaint.

Note: If you are represented by a union and you think your rights have been violated, you should talk to your union representative before contacting the Ministry of Labour.

Contact the Ministry of Labour

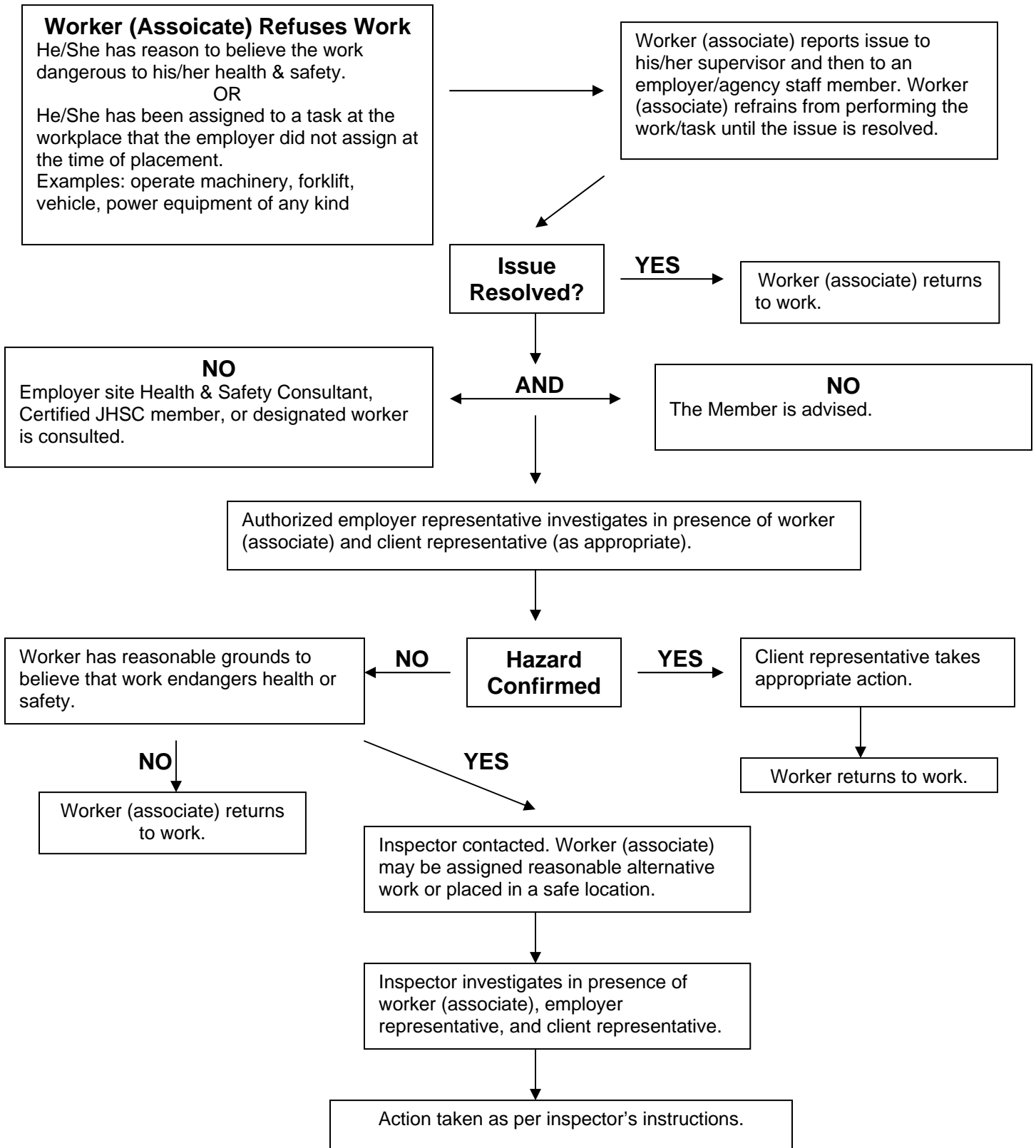
- Call the Employment Standards Information Centre at 416-326-7160 or toll-free at 1-800-531-5551
- Visit your nearest Ministry of Labour Office
- Visit www.gov.on.ca/lab for more information and to contact the Ministry by e-mail.

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Staffing Services

A Member of The Staffing Edge Inc.



Work Refusal Report

Department: _____ **Date:** _____

Shift: _____ **Supervisor:** _____

I. Unsafe Condition or Hazard

Name:

Position:

Description of task being refused:

What changes would you recommend to correct the condition or hazard?

II. Management / JHSC Investigation

Name of person investigating unsafe condition or hazard:

JHSC Rep:

Management Rep:

Results of investigation (what was found, was condition unsafe or a hazard?):
(attach additional sheets if necessary)

Proposed action to be taken to correct hazard or unsafe condition:
(attach additional sheets if necessary)

Signature of JHSC:

Management Signature:

- Completed copies of this form should be routed to the Safety Office and will be reviewed by JHSC
- Copy must be maintained in department files for at least a year.