



Labour

Information on
Occupational Health and Safety

4

RIGHT TO REFUSE DANGEROUS WORK

Introduction

This document is about the right to refuse dangerous work. It aims to inform employees, employers, members of the work place committee, and occupational health and safety representatives of their legal rights and obligations when an employee exercises a refusal to work under Part II of the [Canada Labour Code](#) (Code).

The Labour Program of Employment and Social Development Canada enforces the Code, the purpose of Part II is to protect your workplace health and safety.

This document is [part of a series](#) aiming to provide information on Part II of the Code. It contains changes made to the Code, which came into force on October 31, 2014.

The use of the masculine gender has been adopted to facilitate reading and has no discriminatory intent.

Definition

The definition of danger reads as follows:

“any hazard, condition or activity that could reasonably be expected to be an imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered.”

The right to refuse dangerous work

Any employee subject to Part II of the Code has the right to refuse dangerous work as long as they have reasonable cause to believe that it presents a danger. Specifically the Code states that an employee may refuse in the following circumstances:

- to use or operate a machine that constitutes a danger to the employee or to another employee;
- to work in a place;
- to perform an activity that constitutes a danger to the employee or to another employee.

The Code contains certain exceptions regarding the right to refuse dangerous work. These exceptions include: if the refusal puts the life, health or safety of another person directly in danger; or, if the danger in question is a normal condition of employment.

Note: The procedure is different for an employee working on a ship or aircraft that is in operation. If the employee believes that there is a work-related danger, the employee must bring it to the attention of the person in charge who will then decide what to do after taking into account the safety of the aircraft or ship.

Exercising the right to refuse

An employee wishing to exercise the right to refuse dangerous work shall immediately report the dangerous situation to the employer.¹ If more than one employee has made a report of a similar nature, those employees may designate one employee from among themselves to represent them during the work place committee's or representative's investigation.

The employee shall also specify to the employer whether he or she intends to pursue the matter under the Code or under a collective agreement, when applicable, to deal with the refusal. The employee's decision cannot be changed unless both the employee and the employer agree to do so. If the employee decides to exercise recourse under the collective agreement, the Minister will not intervene.

Employer's investigation and actions to be taken

Upon being notified that the employee has exercised the right to refuse dangerous work, the employer shall immediately investigate the situation in the presence of the employee. The investigation is conducted even if the employee or the person designated to represent the employee chooses not to be present.

The employer cannot, at this point, assign someone else to do the work that the employee refused to do. An employer can only do this after the matter has been fully investigated internally as described in this document, and has been properly referred to the Minister of Labour.

The Code states that the employees affected by a refusal may, for the purpose of calculating wages and benefits, be at work until the end of the scheduled work period or until work resumes, whichever period is shorter.

¹ The Code defines an "employer" as a person who employs one or more employees and includes an employers' organization and any person who acts on behalf of an employer.

Once the employer’s investigation has been concluded, the employer shall prepare a [written report](#) setting out the results of the investigation. If, following the investigation, the employer agrees that a danger exists, the employer shall take immediate action to protect employees from the danger. The employer shall also inform the work place committee or representative of the situation and the action taken to resolve it.

Continued refusal of the employee

If following the employer’s investigation, the employee does not agree with the employer decision, the employee can continue the refusal. The employee shall immediately report the continued refusal to the employer and to the work place committee or representative.

Investigation by the work place committee or representative

Upon being informed of a continued refusal, the work place committee or representative shall immediately initiate an investigation in the presence to the employee. At the conclusion of the investigation, the work place committee or representative shall immediately provide a [written report](#) to the employer that sets out the results of the investigation and their recommendations, if any. The work place committee shall appoint two of its members to conduct the investigation, one member representing the employees, the other representing the employer. To allow for an unbiased investigation by the work place committee, it is preferable that the assigned employer member on the committee not be the same person who conducted the original employer investigation.

The employer can provide the work place committee or representative with [additional information](#) and ask that they review their report, accordingly. If the work place committee or representative considers it appropriate, they can present to the employer a revised report that takes into account this new information.

Employer’s decision

After receiving the report from the work place committee or representative, the employer makes one of the following decisions:

Danger exists	<ul style="list-style-type: none">• The employer shall take immediate action to protect employee(s) and inform the work place committee or representative of the situation and the actions taken to resolve it.• If after the corrective measures are taken and the employee agrees, he or she returns to work.
Danger exists but the refusal is not permitted under ss.128.(2) as it puts lives, health or safety of another person directly in danger or the danger is a normal condition of employment	<ul style="list-style-type: none">• The employer shall notify the employee in writing.• If the employee agrees, he or she returns to work.
Danger does not exist	<ul style="list-style-type: none">• The employer shall notify the employee in writing.• If the employee agrees, he or she returns to work.

If the employee disagrees with the employer’s decision, the employee shall inform the employer that the refusal to work will continue. The employer shall immediately inform the Minister of Labour and the work place committee or representative and shall provide the Minister copies of the two [investigation reports](#).

Minister’s investigation

The Minister, upon being informed of the employer’s decision and the continued refusal, shall conduct an investigation unless the Minister is of the opinion that the refusal is: more effectively addressed by other legislation, [trivial, frivolous or vexatious, or made in bad faith](#). The Minister investigates in the presence of the employer, employee and a member of the work place committee appointed by the employees or of the representative or, if this is not possible, in the presence of any employee from the work place who is appointed by the employee. The employee may continue the refusal to work during the Minister’s investigation on the situation.

At this point, the employer may assign another employee to perform the refused work, but must first ensure the other employee:

- is qualified to perform the work;
- is advised of the continued refusal and the reasons for it; and
- will not be put in danger.

In the event that the Minister conducts an investigation, the Minister shall also consider:

- if there is a previous or ongoing investigation(s) in relation to the same employer and that involve substantially the same issues, and decide whether or not to rely on the findings of previous investigations;
- or
- if the current investigation can be combined with an ongoing investigation(s) in order to issue a single decision.

After these points have been considered, the Minister will conduct an investigation. At the conclusion of the investigation, the Minister shall give written notification of one of the following decisions to the employer and the employee:

Danger exists	<ul style="list-style-type: none"> • The Minister shall issue the directions that the Minister considers appropriate. • An employee may continue to refuse to work until the directions are complied with or until they are modified or cancelled under this Part.
Danger exists but the refusal is not permitted under ss.128(2) as it puts lives, health or safety of another person directly in danger or the danger is a normal condition of employment	<ul style="list-style-type: none"> • The Minister’s decision shall be provided in writing. • The employee is no longer entitled to refuse to work.
Danger does not exist	<ul style="list-style-type: none"> • The Minister’s decision shall be provided in writing. • The employee is no longer entitled to refuse to work.

Following the Minister's written decision, the Minister shall provide the employee, employer and work place committee or representative with a copy of the written report within 10 days of its completion.

In the event that the Minister does not conduct an investigation because the Minister is of the opinion that:

- the matter could be more appropriately dealt with, initially or at each step by means of a procedure provided for under Parts I or III of the Code or under another Act of Parliament;
- the matter is [trivial, frivolous or vexatious](#) or;
- the [continued refusal by the employee is in bad faith](#).

The Minister shall provide this decision in writing to the employer and employee as soon as feasible. After being informed of the Minister's decision not to proceed with an investigation, the employee is no longer entitled to refuse to work.

If the employee feels aggrieved by the Minister's decision to not investigate the refusal to work the employee may file an application for judicial review with the [Federal Court](#) within thirty (30) days after receiving the decision.

Appealing the Minister's decision

An employee who feels aggrieved by the Minister's decision that no danger exists or that the refusal to work is not permitted under ss.128.(2) has ten (10) days after receiving the decision to appeal the decision in writing to an [appeals officer](#).

Appealing the Minister's direction

Any employer, employee or trade union that feels aggrieved by the Minister's direction has thirty (30) days after the direction was issued to appeal the direction in writing to an [appeals officer](#).

Disciplinary action taken by the employer

The Code allows an employer to take disciplinary action against an employee who the employer can demonstrate has willfully abused his right to refuse dangerous work. However, disciplinary action can only take place after all the applicable investigations and appeals have been completed.

The employer must provide written reasons to the employee for any disciplinary action taken within fifteen (15) working days of the employee's request.

The Code allows an employee the right to make a complaint to the [Canada Industrial Relations Board](#). Public servants have the right to make a complaint to the [Public Service Labour Relations Board \(PSLRB\)](#) about improper dismissal, lay off, suspension or other penalty.

The employee has ninety (90) days from the time of the disciplinary action to make a complaint to the Board or the PSLRB.

If an employee complains to the Board or the PSLRB that undue disciplinary action has been taken because of having exercised their right to refuse dangerous work, it will be up to the employer to prove that this is not so.

The Board or PSLRB will make the final decision to resolve the situation; however, the employee can appeal the Board's decision to the [Federal Court](#).

This pamphlet is provided for information purposes only. For interpretation and application purposes, refer to [Part II of the Canada Labour Code](#) (Occupational Health and Safety) and the [Canadian Health and Safety Regulations](#), and relevant amendments.

Information about these provisions may be obtained from the Labour Program by calling toll free at 1-800-641-4049, by visiting the website at <http://www.labour.gc.ca> or by submitting questions or comments through the Labour Program "[Contact Us](#)" form.

Information on OCCUPATIONAL HEALTH AND SAFETY

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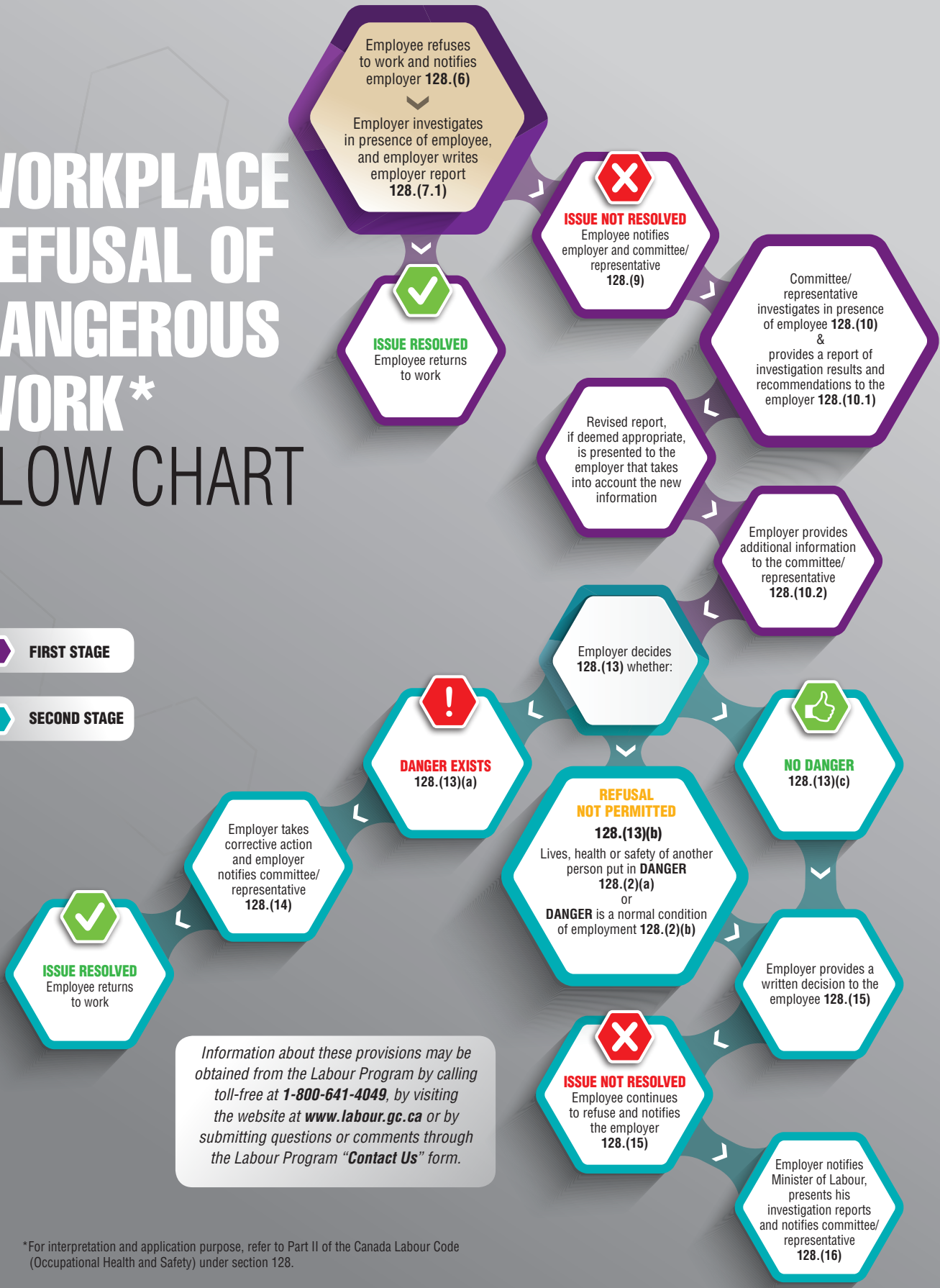
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WORKPLACE REFUSAL OF DANGEROUS WORK* FLOW CHART



Information about these provisions may be obtained from the Labour Program by calling toll-free at 1-800-641-4049, by visiting the website at www.labour.gc.ca or by submitting questions or comments through the Labour Program "Contact Us" form.

*For interpretation and application purpose, refer to Part II of the Canada Labour Code (Occupational Health and Safety) under section 128.

FEDERAL Right to Refuse Dangerous Work [Canada Labour Code, s.122,128, 129,146,147]

Want to learn more
from the WHSC?

Visit:
www.whsc.on.ca

Email:
contactus@whsc.on.ca

Call:
1-888-869-7950
(toll free from
anywhere in Ontario)

Any employee subject to Part II of the *Canada Labour Code (the Code)* has the right to refuse dangerous work as long as they have reasonable cause to believe that it presents a danger to themselves or another employee.

Danger is defined in *the Code* as any hazard, condition or activity that could reasonably be expected to be an imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered. **[s.122(1)]**

There are restrictions on the right to refuse work for some employees. **[s.128(2-5)]** Employees may not refuse to use or operate a machine or thing, to work in a place or to perform an activity if:

- the refusal directly endangers the life, health or safety of another person, or
- the danger is a normal condition of employment. **[s.128(2)]**

For instance, correctional officers could not refuse to work in what they considered a dangerously overcrowded facility.

Overcrowding can occur on occasion in correctional facilities. This would be considered a normal condition of work. However, these same officers could refuse to work where normally required precautions to handle unsafe conditions created by overcrowding were absent. Though the refusal must not directly endanger another person.

Employees on a ship or aircraft in operation who believe a danger exists to them or another employee must immediately notify the person in charge of the ship or aircraft. That person decides if the employee can refuse to work. If the person in charge decides the employee cannot refuse to work, the employee must continue to work while the ship or aircraft is in operation. Ships and aircraft are in operation any time between leaving a port and beginning a flight in Canada until they secure at a wharf or land once again in Canada. **[s.128(3)(4)(5)]**

It is essential for employees and other work place parties to follow the work refusal steps outlined in Section 128 of *the Code* (or the collective agreement).

Reporting a refusal [s.128(6-7)]

The refusing employee immediately notifies the employer. If refusal language exists in a collective agreement, the employee must inform the employer whether they are refusing under the agreement or *the Code*.

The language in the agreement must provide protections to employees that meet or exceed the minimums provided by *the Code*.

Investigating a refusal [s.128(7.1&8)]

Employer investigates immediately in the presence of the refusing employee and must prepare a written report. If the employer takes immediate action to protect employees they must inform the work place committee or employee health and safety representative. If resolved, refusing employee returns to work.

Continued refusal–internal investigation [s.128(9-14)]

If not resolved and the employee still has reasonable cause to believe work poses a danger they must again report the circumstances to the employer and an employee member of the work place committee or representative. One worker and one employer member of the work place committee or representative must then investigate the matter in the presence of the refusing employee and submit a written report, including recommendations, to the employer.

.../over

After receiving the report, the employer may provide additional information and ask for them to reconsider their report. They can then choose to revise and resubmit the report.

If the employer agrees a danger exists the employer must take immediate action to protect employees. If resolved, refusing employee returns to work. The employer must inform work place committee or employee representative of the actions taken to resolve matter.

If the employer believes no danger exists or the employee cannot refuse work because the refusal will directly endanger the life, health or safety of another worker or the danger is a normal condition of employment, they must inform the employee in writing.

Continued refusal–Minister of Labour notified [s.128(15&16)]

If the employee continues to refuse, the employer immediately notifies the Minister and the work place committee or employee representative. The employer must provide the reports on the matter to the Minister.

The employer may assign employee to reasonable alternative work. The employer cannot assign the refused work to another employee unless they are qualified, advised of the work refusal/reasons and the employer is satisfied it will not place the new employee in danger. **[s.129(5)]**

Minister involvement [s.129(1-7)]

The Minister or a designate which is expected, in many cases, to be a health & safety officer can decide no investigation is required when they are of the opinion that

- the matter is one that could more appropriately be dealt with, initially or completely, by means of a procedure provided for under Part I or III of *the Code* or under another Act of Parliament;
- the matter is trivial, frivolous or vexatious; or
- the continued refusal by the employee under s.128(15) is in bad faith. **[s.129(1)]ⁱ**

The Minister shall inform the employer and employee in writing as soon as feasible and the employee must return to work.

The employer must then inform the work place committee members or the representatives of the employee and employer designated under section 128(10) in writing of this decision.

If an investigation is undertaken, it must be done in the presence of the employer, employee and employee member of the work place committee or representative. The Minister provides a written decision immediately to the employer and employee calling for the employee to either return to work or with direction to the employer to take actions to protect employees. If directions are issued to the employer the employee can continue to refuse work until the directions are complied with.

Appeals

The employee has 30 days after receiving the decision to not investigate from the Minister [s.129(1.1)] to file an application for a judicial review (Federal Court)ⁱⁱ

An employee who feels aggrieved by a decision of the Minister that no danger exists or the work refusal is not permitted under section 128(2) can appeal. This appeal must be done in writing to an appeals officer within 10 days after receiving the decision. While the appeal is in progress, the worker must return to work. **[s.129(7)]** The employer, employee or union has 30 days to appeal a direction issued by the Minister [s.129(6)] that danger exists. **[s.146(1)]**

While this appeal is in progress, the employer is required to continue to act on the direction, unless otherwise ordered by the appeals officer. **[s.146 (2)]**

No reprisals [s.147]

It is against the law for employers to dismiss, suspend, layoff or demote, impose a financial or other penalty, discipline or threaten any employee for performing their rights or duties under *the Code*. **[s.147]**

However, employers have the legal right to take disciplinary action against an employee if the employer can prove the employee wilfully abused their right to refuse. At the employee's request the employer must provide the employee with written reasons for any disciplinary action taken within 15 working days of receiving the request. **[s.147.1]**

ⁱ<http://www.labour.gc.ca/eng/resources/tpg/083.shtml>

ⁱⁱhttp://www.labour.gc.ca/eng/health_safety/pubs_hs/refuse.shtml

3 Rights Of An Employee

ESP 042

Health and Safety and the “Law”

As employees of Bell Technical Solutions, regardless of whether we are managers or technicians, we all have specific H&S responsibilities as outlined under the Canada Labour Code. Failure to follow these regulations can result in personal fines to everyone; the company, the manager and you as the technician. Below is a review of the key regulations everyone must know and follow:

Duties of Employers:

1. Provide each employee with the information, instruction, training and supervision necessary to ensure the employees safety.
2. Investigate, record and report all accidents, occupational diseases and other hazardous occurrences known to the employer
3. Ensure that each employee is made aware of every known or foreseeable H&S hazard in the area where the employee works.

Health and Safety and the “Law”

Duties of Employees:

1. Use any safety materials, equipment, devices and clothing that are intended for the employee's protection
2. Follow all prescribed health & safety procedures
3. Take all reasonable and necessary precautions to ensure the safety of the employee, other employees and any other person to be affected by the employees acts or omissions.

AT BTS the minimum expectation is that each and every employee shall follow all the safety rules and use all the safety equipment as outlined in the Company Employee Safety Practices (ESP's).
Never perform a work operation that you feel is unsafe.

3 Rights of an Employee – ESP 042

- The 3 rights of an employee are the Right To Know, Right to Participate and Right to Refuse
- The ‘Right to Know’ is exercised through the provisions of the Canada Labour Code (CLC). The employee has the right to know about known or foreseeable hazards in the workplace and to be provided with information, instruction, training and supervision necessary to protect their health and safety.
- The ‘Right to Participate’ can be exercised by joining or interacting with the following groups:
 - H&S Representatives
 - Workplace H&S Committee (WHSC) for each Department
 - Ontario H&S Policy Committee

3 Rights of an Employee – ESP 042

The 'Right to Refuse' can be exercised if a technician determines a work operation to be unsafe. He/she can take the following actions:

- The employee has the right to refuse if the employee has reasonable cause to believe that there is a condition at work that is a danger to himself or a coworker.
- The technician does not perform the work operation and reports the situation to his/her manager and H&S representative.

If a technician is told the work operation is safe yet he/she still feels it is unsafe the following steps can be taken:

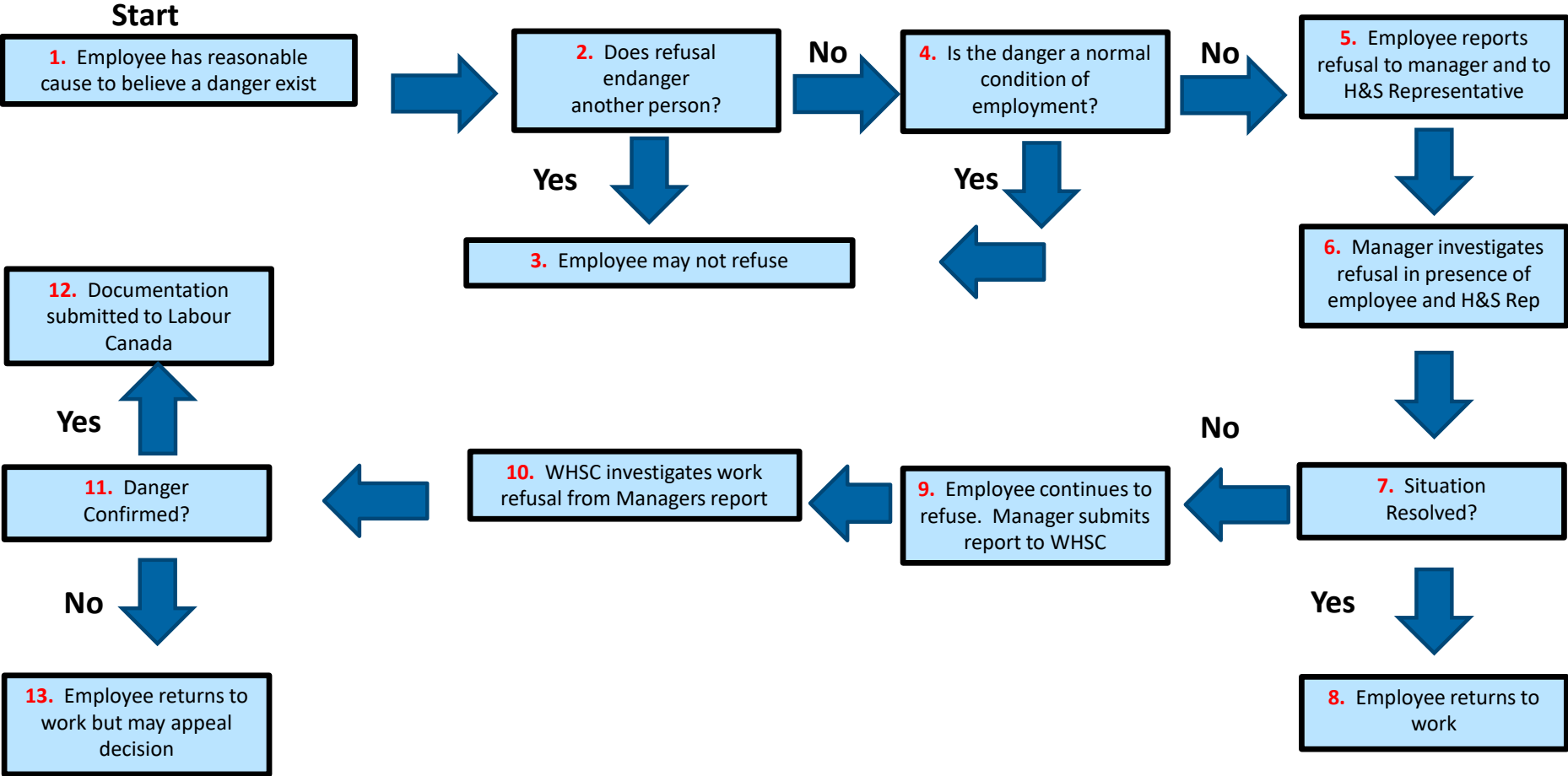
- The problem will be escalated and investigated further by BTS management and the union.
- If it is not satisfactorily resolved the Company H&S Advisor, the WHSC, and HRSDC (Labour Canada) will be notified

3 Rights of an Employee – ESP 042

Can an employer take action against an employee for refusing to do dangerous work?

- The CLC gives the employee the right to complain to the Canada Industrial Relations Board about improper dismissal, lay off, suspension or other penalty
- The Code allows an employer to only take disciplinary action against an employee who misuses or abuses their right to refuse dangerous work

Right to Refuse – The Steps



Key Steps in a Work Refusal-Federal

[Canada Labour Code s.122,128,129,146,147]

1. danger is any hazard, condition or activity that could reasonably be expected to be an imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered.
2. employees cannot refuse if:
 - the refusal directly endangers the life, health or safety of another person
 - the danger is a normal condition of employment
3. if refusal language exists in a collective agreement the employee must inform the employer whether they are refusing under the agreement or *Code*.
4. or employee health and safety representative.
5. employer can provide additional information and report can be revised if needed.
6. employee can be assigned reasonable alternative work. No other employee can be assigned unless they are qualified, advised of the work refusal and employer is satisfied work is not dangerous.
7. or Minister designate, most likely a health and safety officer
8. matter can be dealt with under Part I or III of the Code, or under another Act of Parliament, the matter is trivial or vexatious, or the continued refusal is in bad faith.

Reporting a work refusal

employee has reasonable cause to believe work poses a danger^{1,2}

employee immediately notifies the employer they are refusing work³

Employer Investigation

employer investigates immediately in presence of refusing employee and prepares a written report

Employer takes protective action

employer agrees danger exists and takes immediate action to protect employees

employer informs work place committee⁴

employee agrees and returns to work

Continued refusal-internal investigation

employer does not agree danger exists

employee disagrees and continues to refuse work

employee immediately notifies employer and employee member of the work place committee⁴ who then investigate in the presence of employee

written report, including recommendations, submitted to employer⁵

Employer takes protective action

employer takes immediate action to protect employees

employer informs work place committee⁴

employee agrees and returns to work

Employer decision

employer decides employee cannot refuse work² or no danger exists and notifies employee in writing

Continued refusal- Minister involvement

employee disagrees and continues to refuse work

employer notifies Minister and work place committee⁴ and provides reports to Minister⁶

Employee returns to work

employee agrees and returns to work

No investigation required

Minister⁷ decides no investigation required⁸

Minister⁷ informs employee and employer who then informs work place committee⁴ in writing

employee returns to work

employee has 30 days to seek a judicial review

Minister investigation

Minister⁷ investigates in presence of employer, employee and employee member of work place committee⁴

Minister⁷ directs employer to take actions to protect employees in writing

employer, employee or union has 30 days to appeal

Minister⁷ decides no danger exists or the employee cannot refuse work (issues decision in writing)

employee has 10 days to appeal

No reprisals

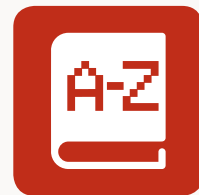
It is against the law for employers to discipline or threaten any employee for performing duties or acting upon their rights under *the Code*.

How the Right to Refuse Works

Under the Canada Labour Code, Part 2, Section 128, you have the right to refuse unsafe or unhealthy work. If you have reason to believe the work is likely to endanger you or someone else, this is what you do.

Definition

The definition of danger reads as follows:



“any hazard, condition or activity that could reasonably be expected to be an imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered.”

BACK COVER
(No Printing)

Step 1:

Worker

Report the problem to your employer or supervisor and to a union member of the health and safety committee. It is illegal for the employer to discipline workers for refusing unsafe work (S. 147).

Supervisor (Employer)

Upon being notified that the employee has exercised the right to refuse dangerous work, the employer shall immediately investigate the situation in the presence of the employee. The investigation is conducted even if the employee or the person designated to represent the employee chooses not to be present.

The Code states that the employees affected by a refusal may, for the purpose of calculating wages and benefits, be at work until the end of the scheduled work period or until work resumes, whichever period is shorter.

Once the employer's investigation has been concluded, the employer shall prepare a written report setting out the results of the investigation. If, following the investigation, the employer agrees that a danger exists, the employer shall take immediate action to protect employees from the danger. The employer shall also inform the work place committee or representative of the situation and the action taken to resolve it.



FRONT COVER
(No Printing)

Step 2:

Worker

If following the employer's investigation, the employee does not agree with the employer decision, the employee can continue the refusal. The employee shall immediately report the continued refusal to employer and to work place committee or Health and Safety Representative.

Investigation

Upon being informed of a continued refusal,

the work place committee or representative shall immediately initiate an investigation in the presence to the employee. At the conclusion of the investigation, the work place committee or representative shall immediately provide a written report to the employer that sets out the results of the investigation and their recommendations, if any. The work place committee shall appoint two of its members to conduct the investigation, one member

representing the employees, the other representing the employer.

Employer's Decision

After receiving the report from the work place committee or representative, the employer makes one of the following decisions:

Danger exists - The employer shall take immediate action to protect employee(s) and inform the work place committee or

representative of the situation and the actions taken to resolve it.

- If after the corrective measures are taken and the employee agrees, he or she returns to work. Danger exists but the refusal is not permitted under ss.128.(2) as it puts lives, health or safety of another person directly in danger or the danger is a normal



- condition of employment. The employer shall notify the employee in writing.
- If the employee agrees, he or she returns to work.
- If danger does not exist. The employer shall notify the employee in writing.
- If the employee agrees, he or she returns to work.

Step 3:

Worker

If the employee disagrees with the employer's decision, the employee may continue the refusal. The employer shall immediately inform the Minister of Labour and the work place committee or representative and shall provide the Minister copies of the two investigation reports.

Minister's Investigation

The Minister, upon being informed of the employer's decision and the continued refusal, shall conduct an investigation unless the Minister is of the opinion that the refusal is: more effectively addressed by other legislation, trivial, frivolous or vexatious, or made in bad faith. The Minister investigates in the presence of the employer, employee and a member of the work place committee appointed by the employees or of the representative or, if this is not possible, in the presence of any employee from the work place who is appointed by the employee. The employee may continue the refusal to work during the Minister's investigation on the situation.

At this point, the employer may assign another employee to perform the refused work, but must first ensure the other employee:

- is qualified to perform the work;
- is advised of the continued refusal and the reasons for it; and
- will not be put in danger.
- In the event that the Minister conducts an investigation, the Minister shall also consider:
- if there is a previous or ongoing investigation(s) in relation to the same employer and that involve substantially the same issues, and decide whether or not to rely on the findings of previous investigations; or if the current investigation can be combined with an ongoing investigation(s) in order to issue a single decision.

After these points have been considered, the Minister will conduct an investigation. At the conclusion of the investigation, the Minister shall give written notification of one of the following decisions to the employer and the employee:

Danger exists

- The Minister shall issue the directions that the Minister considers appropriate.
- An employee may continue to refuse to work until the directions are complied with or until they are modified or cancelled under this Part.

Danger exists but the refusal is not permitted under ss.128(2) as it puts lives, health or safety of another person directly in danger or the danger is a normal condition of employment:

- The Minister's decision shall be provided in writing.
- The employee is no longer entitled to refuse to work.

Danger does not exist

- The Minister's decision shall be provided in writing.
- The employee is no longer entitled to refuse to work.

Following the Minister's written decision, the Minister shall provide the employee, employer and work place committee or representative with a copy of the written report within 10 days of its completion.

In the event that the Minister does not conduct an investigation because the Minister is of the opinion that:

- the matter could be more appropriately dealt with, initially or at each step by means of a procedure provided for under Parts I or III of the Code or under another Act of Parliament;

- the matter is trivial, frivolous or vexatious or;
- the continued refusal by the employee is in bad faith.

The Minister shall provide this decision in writing to the employer and employee as soon as feasible. After being informed of the Minister's decision not to proceed with an investigation, the employee is no longer entitled to refuse to work.

If the employee feels aggrieved by the Minister's decision to not investigate the refusal to work the employee may file an application for judicial review with the Federal Court within thirty (30) days after receiving the decision.

Appealing the Minister's decision

An employee who feels aggrieved by the Minister's decision that no danger exists or that the refusal to work is not permitted under ss.128.(2) has ten (10) days after receiving the decision to appeal the decision in writing to an appeals officer.

Appealing the Minister's direction

Any employee or trade union that feels aggrieved by the Minister's direction has thirty (30) days after the direction was

issued to appeal the direction in writing to an appeals officer.

Disciplinary action by Employer

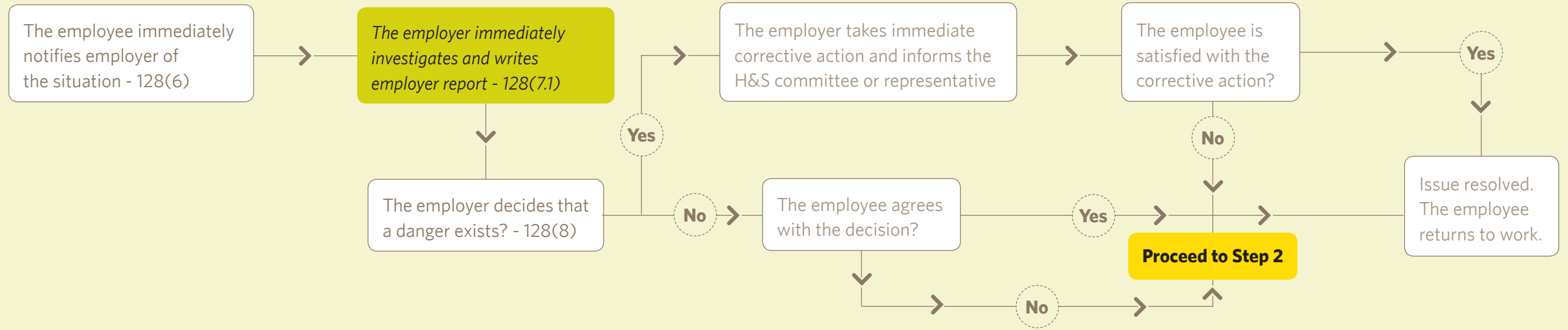
The Code allows an employer to take disciplinary action against an employee who the employer can demonstrate has willfully abused his right to refuse dangerous work. However, disciplinary action can only take place after all the applicable investigations and appeals have been completed. Employer must provide written reasons to employee for any disciplinary action taken within fifteen (15) working days of the employee's request. The Code allows an employee the right to make a complaint to the Canada Industrial Relations Board. Public servants have the right to make a complaint to the Public Service Labour Relations Board (PSLRB) about improper dismissal, lay off, suspension or other penalty. The employee has ninety (90) days from the time of the disciplinary action to make a complaint to the Board or the PSLRB.



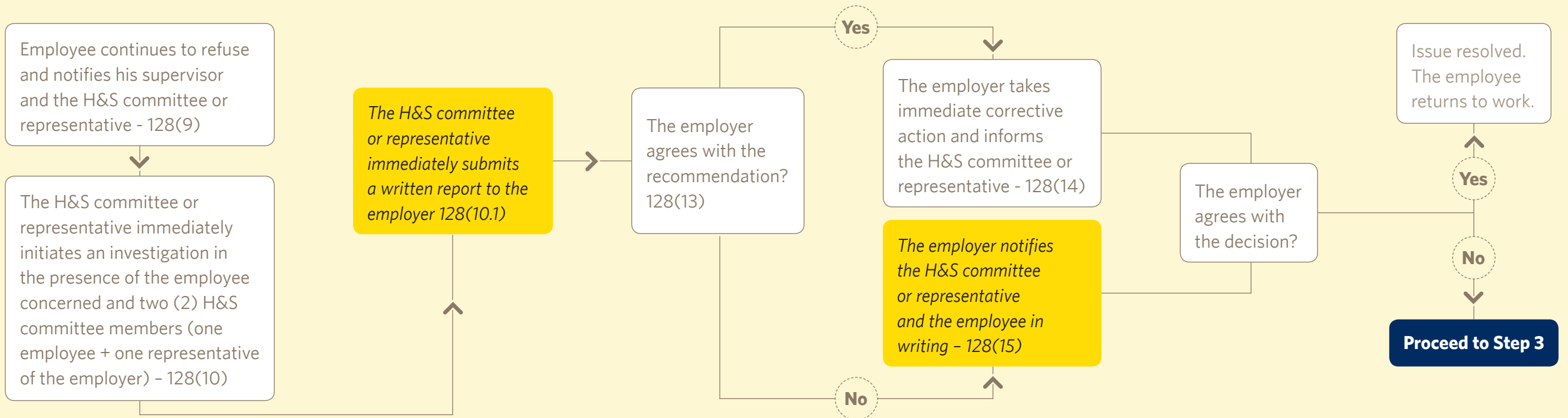
RIGHT TO REFUSE DANGEROUS WORK - Canada Labour Code, Part II, Article 128(1)

Amended: 2014-10-31

STEP 1: IMMEDIATE INVESTIGATION BY THE EMPLOYER



STEP 2: CONTINUED REFUSAL OF THE EMPLOYEE



STEP 3: INVESTIGATION BY THE MINISTER

