

COVID -19

FREQUENTLY ASKED QUESTIONS

March 23, 2020

1. What if employees refuse to work because they are concerned about contracting COVID-19 in the workplace?

Employers, Employees and Unions all have an obligation to protect the health and safety of employees under the *Occupational Health and Safety Act*.

Where employees have a reasonable basis to believe that there is a dangerous condition in the workplace the employee may be able to refuse to attend work or perform certain duties.

In the event of a work refusal, the employer must respond in accordance with *Occupational Health and Safety Act*. No reprisal for properly exercising a health and safety right may lawfully occur.

2. Can an employer fire an employee if they contract COVID-19?

No. Employers may not terminate an employee or otherwise discriminate against an employee due to physical disability (which includes certain illnesses) under the *Human Rights Code*.

The Union will challenge any termination under such an alleged violation.

3. Can an employer close or suspend their business due to COVID-19 outbreak?

An employer must ensure a safe working environment. Depending on the situation, an employer may find it necessary to close or suspend business.

4. Do employers have to buy personal protective equipment for employees?

Employers have a duty to provide a safe working environment. If employees run the risk of becoming infected at work, the employer must provide personal protective equipment as deemed necessary.

5. Can an employer take an employee's temperature to determine whether they might be infected? What about other medical testing?

Human rights legislation places restrictions on an employer's ability to require medical examinations or health testing. Generally, unless the examination or testing is reasonably required to assess the employee's ability to work (e.g. a *bona fide* occupational requirement), compulsory testing of all employees through temperature checks would not be appropriate.

However, as the prevalence of COVID-19 continues to escalate, it may become reasonable for employers to take more aggressive health testing measures in the workplace, including temperature checks. We will continue to review recommendations from the Public Health Agency of Canada and provincial health authorities.

6. What if someone I work with has tested positive for COVID-19 – what does the employer do?

The employee will not be permitted to return to the workplace until they are free of the COVID-19 virus. The current advice from health authorities is that all employees who worked closely with the infected employee should also be removed from the workplace for at least a 14-day period to ensure the infection does not spread in the workplace.

7. There is an unconfirmed case of COVID-19. What to do?

As with a confirmed case, the employee should be removed from the workplace.

The Public Health Agency of Canada encourages any person who has even mild symptoms to stay home and call the public health authority in the province or territory they are in to inform them. They will provide advice on what the employee should do.

Other employees who may have been exposed should be informed and removed from the workplace for at least a 14 day period or until the diagnosis of COVID-19 is ruled out by health authorities.

WSIB

8. If an employee contracts COVID-19 at work – are they covered by workers' compensation?

Possibly, but the assessment of whether the employee is entitled to compensation would be assessed on a case-by-case basis. Workers compensation boards will have to assess whether COVID-19 is an occupational disease: e.g. it was caused by and arose out and in the course of employment.

Employment Insurance

9. EI Sickness Benefits

Employment Insurance (EI) sickness benefits provide up to 15 weeks of income replacement and is available to eligible claimants who are unable to work because of illness, injury or quarantine, to allow them time to restore their health and return to work. Canadians quarantined can apply for EI sickness benefits.

Presently, the one-week waiting period for EI sickness benefits has been waived for some claimants.