

COVID-19 EMPLOYER / EMPLOYEE FAQs

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Health & Safety Edition

CAN AN EMPLOYEE REFUSE TO COME INTO WORK OVER A FEAR OF BEING EXPOSED TO OR CONTRACTING COVID-19?

Short answer, no.

If an employee's workplace has implemented reasonable safety precautions to reduce the risk of contracting COVID-19, the employee could face disciplinary action if they decide NOT to show up to work for fear of catching COVID-19. Additionally, employees must be at work in order to legitimately refuse unsafe work. The Occupational Health and Safety Act ("OHSA") protects employees' rights with respect to refusing unsafe work. If a worker exercises their right to refuse unsafe work, management must investigate their concerns and attempt to rectify the employees' issues. Until an investigation is completed (by management or an inspector from the Ministry of Labour), no other work is permitted in the affected area and employees are advised to continue working in other areas.

CAN MY EMPLOYER FORCE ME TO UNDERGO A SPECIFIC MEDICAL PROCEDURE OR TEST (I.E. A TEMPERATURE CHECK UPON ARRIVAL AT WORK)?

Short answer, no.

In regards to COVID-19, it is unclear whether a simple check of an employee's temperature will help to reduce the risk to the public and/or workplace. COVID-19 does not always result in expected symptoms and there can be a significant lag between when people contract the virus and when they become symptomatic.

It is accordingly unclear whether there is sufficient evidence to demonstrate that any one specific action will contribute meaningfully to a safer workplace. With that said as evidence becomes revealed, employers may be in a better position to demonstrate that requiring a medical procedure is reasonable on balance to maintain the safety of the workplace.

MY EMPLOYEE HAS TESTED POSITIVE FOR COVID-19. AS AN EMPLOYER, AM I REQUIRED TO NOTIFY ANY GOVERNMENT AUTHORITIES?

Ontario's *Occupational Health and Safety Act* ("OHSA") states, an employer has reporting obligations when a worker is exposed to the COVID-19 in the workplace. An employer, specifically, must do the following:

- Inform the Ministry of Labour in writing within 4 days of being advised that an employee has tested positive for the COVID-19;
- Notify the WSIB that an employee has tested positive for the COVID-19;
- Notify the workplace's Joint Health and Safety Committee and representative.

WHAT SHOULD I DO IF AN EMPLOYEE COMES TO WORK WHEN THEY HAVE BEEN INSTRUCTED TO SELF-ISOLATE?

Employers are to take immediate action and ensure that the employee is escorted out of the office/workplace. To keep other employees safe, it is important to confirm where the employee had been present in the office and whether the employee came into contact with any other workers during their time in the office or workplace. If the employee encountered any other workers, employers should take initiative and advise workers that they may have been exposed to COVID-19, to go home and self-isolate.

Employers are to take appropriate measures to clean and sanitize the workplace, including any areas where the employee was present in the office.

Further,

WHAT SHOULD I DO IF I TEST POSITIVE FOR COVID-19?

Notify your employer immediately about your results and ensure to self-isolate. Current advice is that quarantine should last at least 14 days however employees should seek the latest information from local public health authorities and your medical practitioner. It is also important to continue to update your employer. Courts expect that employers and employees to work cooperatively in facilitating a safe return to work.