



CITY POLICY & PROCEDURE

SECTION: HUMAN RESOURCES

NO: HR-HS-13

REFERENCE: HEALTH AND SAFETY

Date: October 21, 2013

**Occupational Health & Safety
– General Procedures**

**Next Review Date:
October 2015**

TITLE: REFUSAL TO WORK AND BILATERAL WORK STOPPAGE

1.0 POLICY STATEMENT

The Occupational Health & Safety Act and Part II of the Canada Labour Code (Airport) gives individual employees the right to refuse work if they have reason to believe that it may endanger them or another employee.

2.0 PROCEDURE

- 2.1 A work refusal is initiated by an individual employee. A work refusal begins when an employee reports the circumstances of the refusal to their Supervisor.
- 2.2 The Supervisor must investigate immediately in the presence of the employee and a Worker Representative from the respective Joint Health & Safety Committee (JHSC) who, if possible, is a certified representative. The Employer has a duty to make the Committee member available, and the member has a duty to attend "without delay".
- 2.3 The first priority is to verify that a work refusal is in progress and to find out why the employee has refused. The Worker Representative from the JHSC then accompanies the Supervisor who must conduct an investigation.
- 2.4 If the Supervisor agrees that an unsafe condition exists, the Supervisor resolves the problem and notifies the employee that it is safe to return to work.
- 2.5 If the Supervisor does not agree that an unsafe condition exists, or continues to exist, and the employee continues to refuse, one of the parties must call a Ministry of Labour Inspector (*for Airport, both of the parties must call a Labour Affairs Officer*).

2.0 PROCEDURE (Cont'd)

- 2.6 While the MOL Inspector or the Labour Affairs Officer's investigation is in progress, the Supervisor may assign the refused work to another person. No employee may be assigned the refused work without first being informed that a refusal is in progress, and being advised of the reasons for the refusal. The Supervisor must give this advice in the presence of the Worker Representative from the JHSC who, if possible, is a certified member. Meanwhile, the employee who refused to work may be asked by the Supervisor to remain in a safe place nearby or may be assigned to reasonable alternative work.
- 2.7 The Supervisor, employee and the Worker Representative are entitled to be present when the MOL Inspector or the Labour Affairs Officer investigates. The MOL Inspector or the Labour Affairs Officer must provide the workplace parties with a written decision as soon as practicable.
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3.0 BILATERAL WORK STOPPAGE

- 3.1 This work stoppage could shut down work being performed that is considered dangerous.
- 3.2 Dangerous circumstances exist where three (3) conditions are met:
- 3.2.1 a failure to comply with the Occupational Health & Safety Act;
 - 3.2.2 it poses a hazard to a worker; and,
 - 3.2.3 any delay in controlling the danger or hazard may seriously endanger a worker.
- 3.3 The work stoppage provisions do not apply to a workplace where the hazard is inherent in the work or is a normal condition of employment or where the work stoppage would directly endanger another person.

4.0 STOP WORK PROCEDURE BEGINS WITH A CERTIFIED JHSC MEMBER

- 4.1 Where a certified JHSC member has reason to believe that dangerous circumstances exist, he/she has the right to begin the stop-work process. The Certified Member may learn of dangerous circumstances during an inspection, an incident investigation, or the investigation of a work refusal or a worker complaint.
- 4.2 The Certified Member must advise a Supervisor that dangerous circumstances exist and request that a Supervisor investigate the matter. The Supervisor must do so promptly in the presence of the Certified Member.
- 4.3 If the Certified Member believes that dangerous circumstances continue to exist, in spite of any action taken by the Supervisor they may request the Certified Member representing the other workplace party investigate the matter. That second Certified Member must investigate the matter promptly in the presence of the first Certified Member.
- 4.4 If both Certified Members of the Joint Health and Safety Committee agree that dangerous circumstances exist, they may direct the Supervisor to stop the work that is causing the problem. The Supervisor must immediately comply.
- 4.5 When action has been taken to correct the problem, either the Certified Members or an Inspector may cancel the stop-work direction.
- 4.6 If the Certified Members cannot agree that dangerous circumstances exist, either can request an Inspector to investigate. The Inspector must investigate and issue a written decision.

Part II of the Canada Labour Code does not provide for a bilateral work stoppage because there are no certified JHSC members. If a danger exists in the workplace, employees have the right to refuse work individually. An employee does not have the right to direct a supervisor to stop work.

5.0 INSTRUCTIONS TO SUPERVISORS ON EMPLOYEE REFUSAL TO WORK UNDER THE OCCUPATIONAL HEALTH AND SAFETY ACT OR PART II OF THE CANADA LABOUR CODE (AIRPORT)

SHOULD AN EMPLOYEE UNDER JURISDICTION REFUSE TO WORK UNDER CONDITIONS THEY BELIEVE TO BE UNSAFE PURSUANT TO THE *PART II OF THE CANADA LABOUR CODE*, FOLLOW THIS PROCEDURE:

1. Discuss with the employee the reasons for the refusal to work.
2. Record those reasons given.
3. Arrange for the presence of a "Certified" (if possible) Worker Representative from the respective Joint Health and Safety Committee to accompany you and the employee in an investigation of the complaint.
4. Conduct the investigation.
5. Discuss with the worker and the Worker Representative from the Joint Health and Safety Committee, your findings and decision about the situation upon which the complaint is based.
6. Should you agree with the complainant, re-assign them to other suitable work permitted within the terms of the collective agreement and immediately take the necessary steps to have the situation corrected or isolated until corrective measures are available.
7. Notify **your** Supervisor and prepare a written report of the complaint.

SHOULD THE COMPLAINANT CONTINUE TO MAINTAIN THAT THE UNSAFE SITUATION REMAINS AFTER YOUR DECLARATION THAT IT IS SAFE, FOLLOW THIS PROCEDURE:

1. Keep in mind that the complainant's original "reason to believe" basis for the complaint must now become "reasonable grounds" (good or strong evidence).
2. (a) For a complaint under the Occupational Health and Safety Act, immediately notify an Inspector of the Ministry of Labour (807-223-4898) of the refusal to work and request their presence for an investigation.

(b) Airport:

Both the Supervisor and Worker Representative of the Joint Health and Safety Committee must immediately notify the Labour Affairs Officer of Human Resources Development Canada (Cell: 807-626-2217 or Office: 807-346-2190) of the refusal to work and request their presence for an investigation.

3. Notify your Supervisor and contact the City Health and Safety Coordinator.
4. Surrender your place in the new investigation to your Supervisor, but make yourself available for response to questions posed by the Inspector OR Labour Affairs Officer.
5. Prior to the Inspector OR Labour Affairs Officer's arrival, you may request the complainant to remain at a safe place near their workstation during their normal working hours, unless they are re-assigned to suitable alternate work during such hours, subject to the collective agreement.
6. Request that the Worker Representative from the JHSC be available for the Inspector OR Labour Affairs Officer's investigation.
7. You may assign a second employee to the task considered by the complainant to be unsafe provided you first advise the second worker of the complainant's refusal to work and the reasons given for the refusal.
8. The complainant is entitled to regular pay during the work refusal investigation.

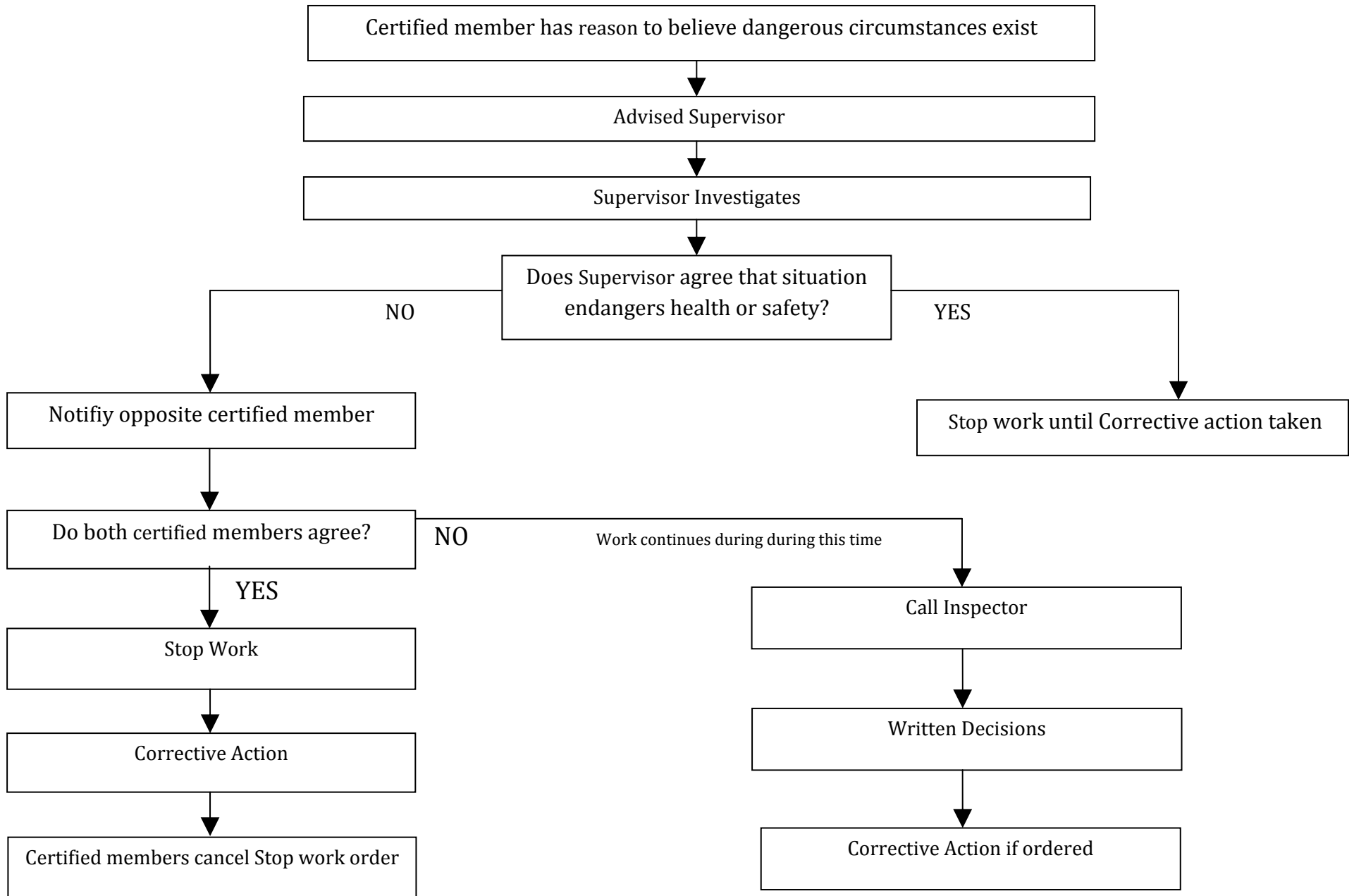
APPENDIX:

WORK REFUSAL FLOW CHART

BILATERAL WORK STOPPAGE FLOW CHART

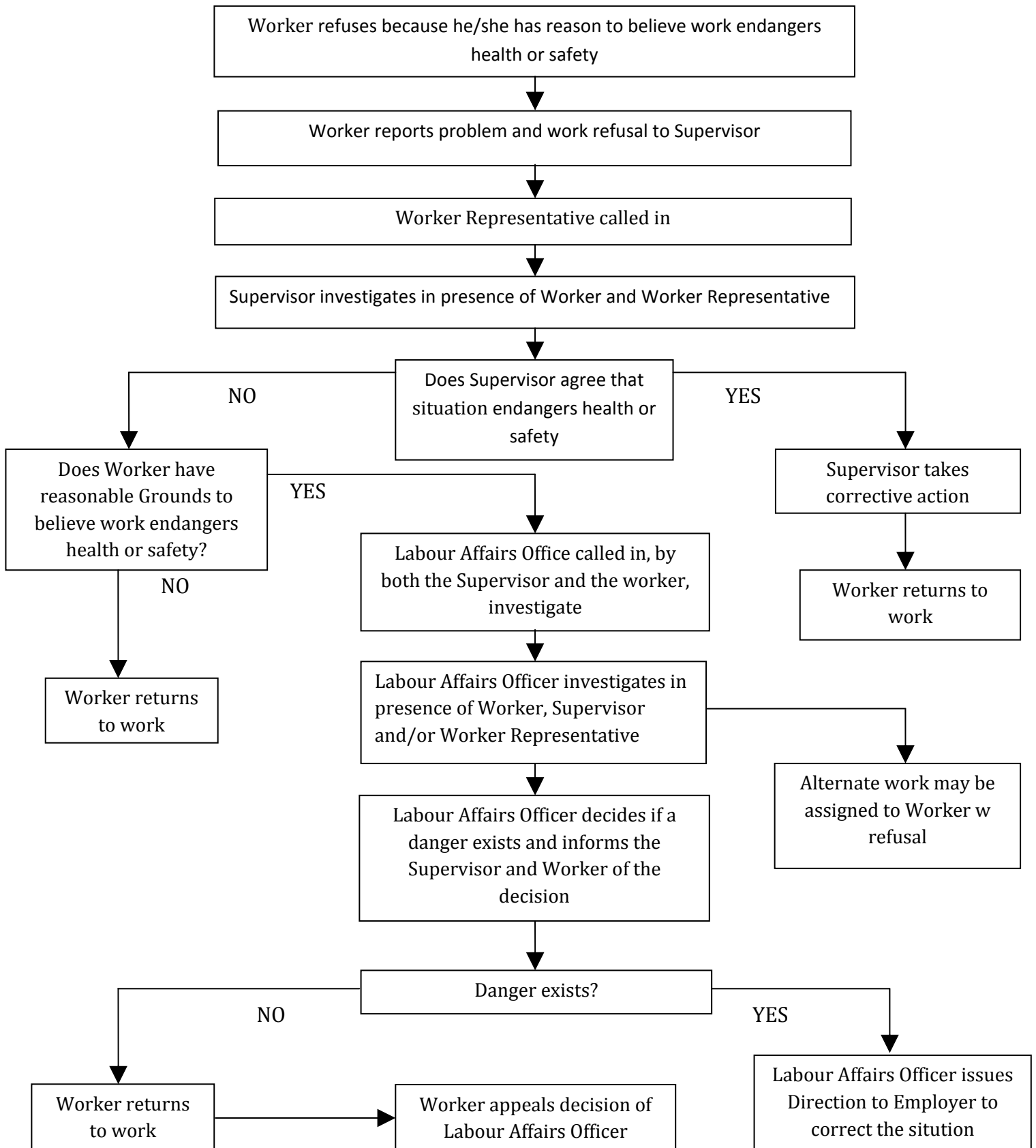
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BILATERAL WORK STOPPAGE



WORK REFUSAL PROCESS

For Telephone/Airport



WORK REFUSAL PROCESS

