

## DEALING WITH INSPECTORS: WHAT TO DO WHEN YOU GET A STOP WORK ORDER

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The OHS laws give safety inspectors the power to make companies take specific steps to address potential threats to worker's health and safety. For example, inspectors may stop work at a workplace until the company takes certain steps to correct a serious health and safety problem. Stop work orders can be extremely disruptive and complying with them can be expensive. The right response to a stop work order can minimize disruption: the wrong response can make a bad situation worse. Some jurisdictions distinguish between orders to stop performing work or a certain kind of work activity (stop work orders) and orders to stop using a particular tool, machine, substance or piece of equipment (stop use orders). Because your response should be the same for either kind of order, we will use the term "stop work order" to refer to both.

In Ontario, when an inspector makes an order and finds that the violation of the Act or regulations is a danger or hazard to the health or safety of a worker, he may order:

1. That any place, equipment, machine, device, article or thing or any process or material not be used until the order is complied with
2. Stoppage of the work at the workplace as indicated in the order until the order to stop work is withdrawn or cancelled by an inspector after an inspection; or
3. That the workplace be cleared of workers and isolated by barricades, fencing or any other means suitable to prevent access to it by a worker until the danger or hazard to the health or safety of a worker is removed.

Here are six steps to take when an inspector issues a stop work order for your workplace.



### 6 Steps for Responding to Stop Work Orders:

#### Step #1: Stay Calm

Yes, getting a stop work order is inconvenient and a hassle. But stay calm if an inspector issues your company one and respond professionally. Over-reacting and throwing a fit can

only lead to more problems for you and the company, including obstruction charges.

*Example:* an MOL inspector issued a stop work order at a construction site. While he was finishing the paperwork in his van, a supervisor approached and threw a three-ring binder through the van's open window. It flew past the inspector and out the opposite window. The supervisor pleaded guilty to hindering, obstructing, molesting or interfering with an inspector. The court fined him \$1,800.

#### Step #2: Confirm Scope of Order

Stop work orders can apply to a particular machine, tool, process, activity – or, in extreme cases, the entire workplace. So make sure that you confirm with the inspector the exact scope of the order. For example, if the inspector orders you to stop using a particular tool for a job, find out whether workers can continue to do that job using a different tool.

#### Step #3: Stop the Work Covered by the Order

Even if you think that the order is baseless and plan to challenge it, you must comply with the order in the meantime, at least as to the stop work aspect of it. (You may be able to get the order's compliance requirements suspended during the appeal.) Deliberately disobeying or ignoring a stop work order is itself an OHS violation – and a very serious one. So blatantly disregarding the order and continuing to let workers do the prohibited activity or use the banned machine may lead to additional safety violations on top of any violations based on the hazard that led to the order in the first place.

*Example:* After a worker was injured, an inspector issued a stop work order and attached a stop work tag to a grinder. A few weeks later, he returned to see if the necessary compliance measures had been completed so he could lift the order. Instead, he found that the stop work tag had been removed and reattached. A worker told the inspector that a manager had removed the tag and authorized the use of the grinder. When questioned, he manager lied to the inspector about the tag's removal. The company was fined \$60,000 for a safety violation related to the worker's injury. The manager pleaded guilty to a safety offence for this conduct regarding the tag and was fined \$5,000.

#### **Step #4: Decide Whether to Appeal the Order**

Safety officials aren't perfect and not every order they issue is justified or reasonable. The OHS laws let companies challenge orders. But your company can't take the law into its own hands and unilaterally decide that orders are invalid and can be ignored. What the company can do is appeal the order to get an official ruling that it doesn't have to comply.

If the company decides to challenge the stop work order, it may be able to get the order suspended until the appeal is decided but the burden you must meet to get an order suspended is very high. For example, in Ontario, the Labour Relations Board must consider three factors when deciding if it should suspend an inspector's order pending appeal:

1. Whether suspending the order would endanger workers
2. Whether suspending the order would prejudice the employer or prosecutor; and
3. Whether the employer has a good chance of winning the appeal.

#### **Step #5: Comply with the Order**

If the company decides not to appeal the order or can't get it suspended while the appeal is being decided, you must comply with it. That is, you must make sure that the company takes whatever step the order requires it to take to address the hazard that led to the order. For example, the order may require you to install a guard on a pinch point on a piece of equipment, develop safe work procedures for a particular job or replace PPE that's damaged and no longer effective.

#### **Step # 6: Notify Government of Compliance**

Once you have complied with the order, the OHS law typically requires you to notify the government or the inspector who issued it that you have complied. Then the inspector can confirm compliance and lift the order.

#### **Bottom Line**

In a perfect world, your company's OHS program would prevent any safety violations and you would never have to deal with a stop work order. But nothing's perfect. So it's likely that at some point you will be faced with such an order. By following the above steps, you can minimize any disruption to the company's operations and avoid additional violations.

LaborTek Safety Training can help by:

- Developing your company's occupational health and safety program so that you are **not** subject to stop work orders.
- Putting in place the remedial steps/actions so that the stop work order is lifted.

#### **Source:**

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