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# *COVID-19 and Construction Businesses*

## *Employment, Labour and other Workplace Issues*

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Keith P. Burkhardt

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250 Yonge Street Suite 3300  
Toronto, Ontario M5B 2L7  
Tel 416.603.0700  
Fax 416.603.6035  
24 Hour 416.420.0738  
[www.sherrardkuzz.com](http://www.sherrardkuzz.com)

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# *Agenda*

- Employment issues
- Record of Employment (ROE)
- Government programs
- Workplace Safety and Insurance Board
- Labour relations
- Occupational health and safety

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# *Employment Considerations*

- The Goal – *Maintain operations (at some level)*
- Consider:
  - Reductions in hours and rates of pay
    - Define “temporary”
  - Reduce to “skeleton crew”
  - Complete office closure
  - Employees may take vacation or use lieu time

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# *Employment Considerations*

- Temporary layoff

  - 13 weeks if benefits are not continued

  - 35 weeks if benefits are continued

- Termination of employment

  - Importance of employment contracts

    - “Constructive dismissal” issues

  - *Employment Standards Act* and common law entitlements

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# *Obligations to Pay Employees*

- Employees are paid when they are at work
- Employees are not entitled to pay when they are not working
  - Quarantine or self-isolation
  - Layoff due to reduction in work
  - Layoff due to being a non-essential business
  - Leave of absence/decline opportunity to work
- Employer may establish SUB plan

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# *Record of Employment (ROE)*

## ■ Timing

- Per collective agreement or five calendar days

## ■ Block 16 - Reason for ROE

- Sick or self-isolation – Code D (Illness/injury)
- Layoff – Code “A” (Shortage of Work)
- Employee chooses not to come to work but is not sick or quarantined – Code “E” (Quit) or “N” (Leave of Absence)
- Frustration – Code “K” (Other) with a Note - “Closure of business due to Government order”

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# *Government Programs - CERB*

- Canada Emergency Response Benefit (CERB)
  - Income relief of \$2,000 per month for four months
    - Includes self-employed/pieceworkers and individuals who remain home with family member who is ill or children out of school
  - Online portal opened April 6, 2020
    - Application based on month of birth

# ***Government Programs – Wage Subsidies***

- **Small Employers** (taxable capital under \$15 million)
  - ❑ 10% subsidy for all employers over 3 months
  - ❑ Maximum - \$1,375/employee or \$25,000/employer
  - ❑ Calculated in remittances to Canada Revenue Agency
  
- **Company revenues must drop at least 30%**
  - ❑ Month-to-month calculation (2019 vs. 2020)
  - ❑ 75% subsidy (max of \$847 per week per employee)
  - ❑ Not combined with 10% subsidy



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# *Workplace Safety and Insurance Act*

- Requires work-related exposure
- Consider objection to entitlement in a Form 7
- Any entitlement attributed Schedule-wide
  - Not attributed to individual employer
- COVID-19 related layoffs do not impact Loss of Earnings or claims history

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# *Labour Relations Considerations*

- Review collective agreements
- Layoffs
  - Timing of layoffs, final pay and records of employment
  - Recall from layoffs
- Addressing shortage of workers
  - Additional workers from union(s)
  - Subcontracting of work

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# *Occupational Health and Safety Act*

## ■ General duties of

Owner

Constructor

Employer

Supervisor

Worker

## ■ Additional duties in regulation

*Construction Projects, O Reg 213/91*

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# *Health and Safety – Toilets and other “Facilities”*

- Constructor responsible for “facilities”
- Supervisor required to inspect “sanitation systems” at least once per week
- One toilet for every 10 or 15 workers
- One clean-up facility for every two toilets
  - Wash basin with running water
  - Soap or hand cleanser
  - Paper towels or a hand dryer

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# *Health and Safety – Toilets*

- Include a toilet with a lid
  - Toilet paper holder (with supply of toilet paper)
  - Sanitary napkin disposal for females
- Provide privacy and protection from weather and from falling objects
- Be illuminated, heated and ventilated
- Be serviced (pumped), cleaned and sanitized
  - Constructor to keep record of servicing

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# *Health and Safety – Drinking Water*

- Reasonable supply of potable drinking water
  - Piping system or clean, covered container with a drain faucet
- Workers provided a sanitary means of drinking the water
  - Not a common drinking cup

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# *Health and Safety – COVID-19*

- Minimize groups of workers
  - Stagger start and end times, breaks and lunch
  - Changes to toolbox and safety talks
  - Limits on workers in a hoist or on site
  - Remove coffee truck, stagger deliveries
- Sanitize tools, equipment and work locations
- Remind workers of actions to minimize transmission of COVID-19

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# *Health and Safety – COVID-19*

- What about working 6 feet apart?
- Ministry of Labour guidelines (March 29)
  - Construction site health and safety during COVID-19
  - Best practices
  - Reporting illnesses
  - Obligation to post policies
  - Adjusting schedules and tracking workforce



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# *Questions to Ask Workers and Visitors*

- Within the last 14 days, have you:
  1. Experienced, or been in close contact with someone with, flu-like symptoms, or been diagnosed with, or been in close contact with someone who has been diagnosed with, COVID-19; or
  2. Travelled outside Canada; or
  3. Been on a cruise ship?
- “Yes” to any question = Access denied

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# *Question #1 – Broken Out*

## ■ Have you:

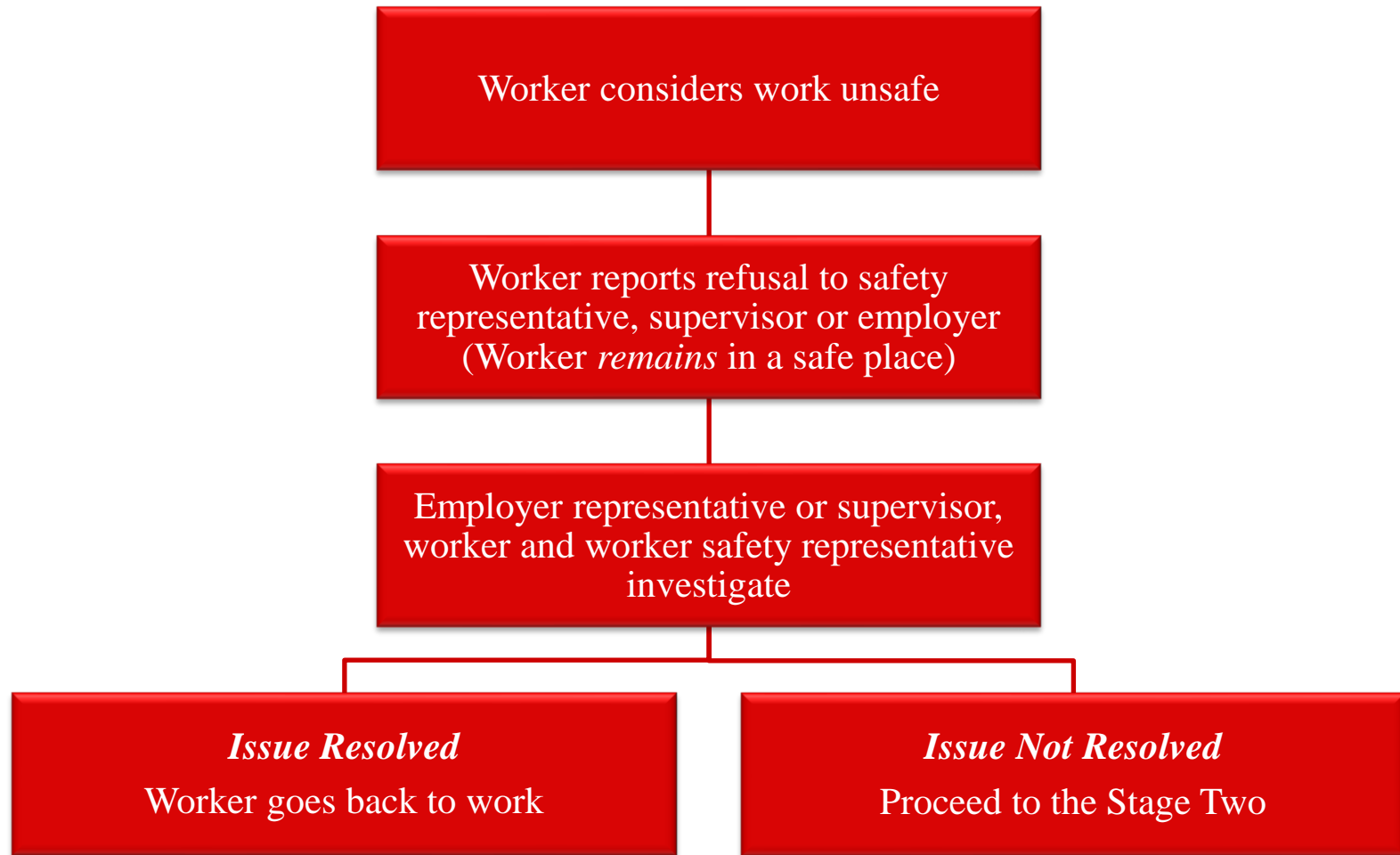
- Experienced cough, fever, trouble breathing or any other respiratory issue;
- Been diagnosed with the flu or COVID-19;
- Been in close contact with someone who has had a cough, fever, trouble breathing or any other respiratory issue; or
- Been in close contact with someone who has been diagnosed with COVID-19?

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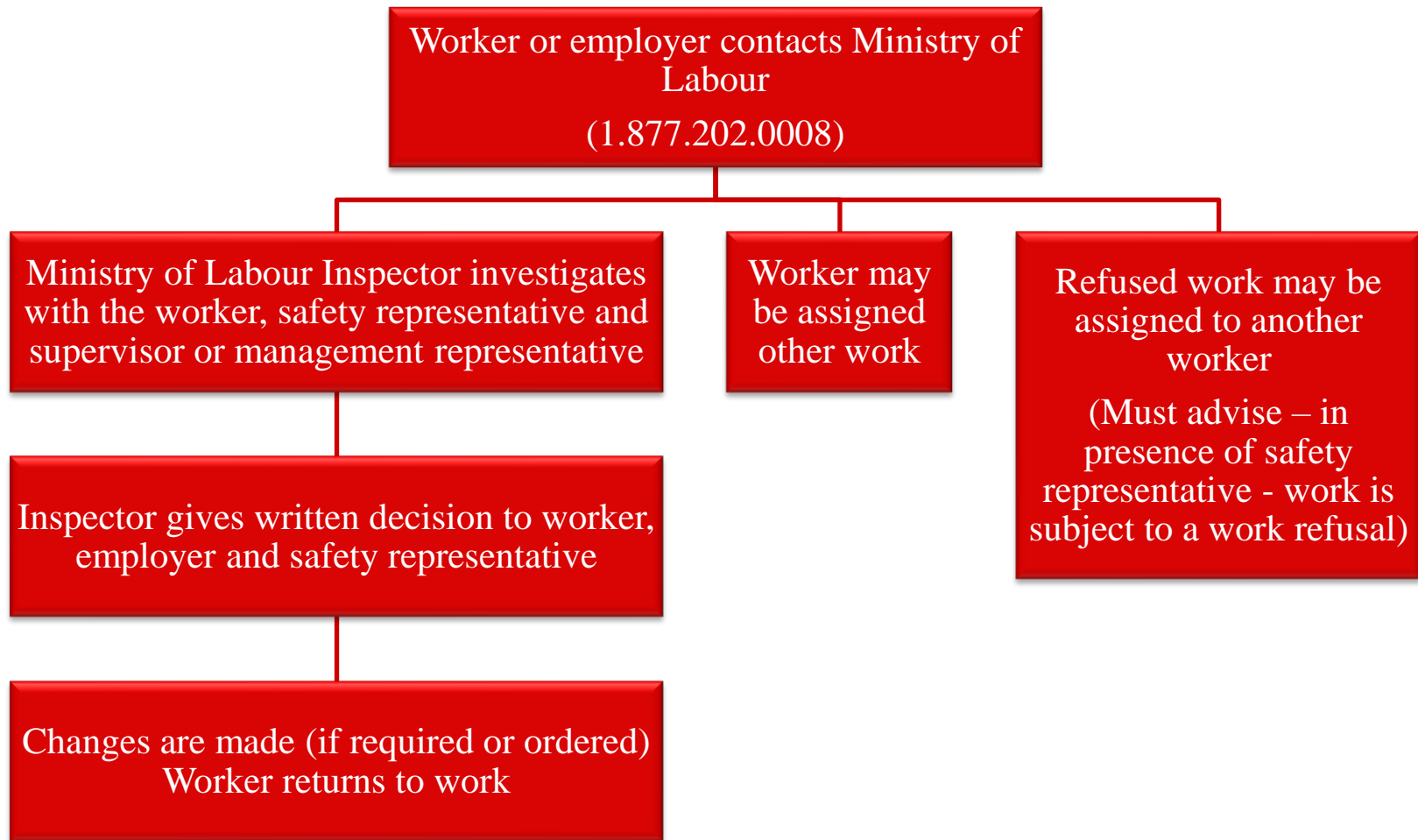
# ***Taking Temperatures – Best Practices***

- Advanced notice and test everyone each time they enter the site
- Maintain privacy
- Trained individual performing the test
- Infrared digital thermometer or temple touch
- Determine threshold in advance (100 degrees)
- Do two tests if temperature in excess of limit
- Keep results private

# *Work Refusals – Stage One*



# *Work Refusals – Stage Two*



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# *Next Steps*

- Be a “best boss”
- Consider office operations
- Communicate with workers and unions
- Ensure health and safety measures are met
- *Wash your hands...*

# Questions?



- Sherrard Kuzz LLP
  - Office - 416.603.0700
  - [www.sherrardkuzz.com](http://www.sherrardkuzz.com)
- Keith Burkhardt
  - [kburkhardt@sherrardkuzz.com](mailto:kburkhardt@sherrardkuzz.com)
  - Office - 416.603.6252
  - Cell – 416.788.4893
- Frequently Asked Questions
  - [General FAQs re: COVID-19](#)
  - [Construction FAQs re: COVID-19](#)



250 Yonge Street, Suite 3300  
Toronto, Ontario, Canada M5B 2L7

416.603.0700 Phone  
416.420.0738 24 Hour  
416.603.6035 Fax

[www.sherrardkuzz.com](http://www.sherrardkuzz.com)



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