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# *COVID-19 and Construction Businesses*

## *Employment, Labour and other Workplace Issues*

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# *Agenda*

- Overview of “essential business” order
- Employment issues
  - Layoffs and terminations
- Government programs and subsidies
- Labour relations
- Occupational health and safety

# *Essential Businesses - Background*

- *Emergency Management and Civil Protection Act*
  - Government may make orders “*closing any place, whether public or private, including any business, office, school, hospital or other establishment or institution*”
- *Ontario Regulation 82/20 - Order Under Subsection 7.0.2 (4) — Closure Of Places Of Non-essential Businesses*
  - April 3 – Revised (narrower) list released

# *Essential Businesses – The Decision*

- Compare to March 23 list
  - Narrowing of classifications
  - Qualifiers – “necessary”, “required”, “critical”
- Stated intent of government
- Position of owners/general contractors
- Consider the downside
  - Risks to employees
  - Financial penalties

# *Limited Access to Closed Business*

- Temporary access permissible only to
  - ❑ Comply with any applicable law
  - ❑ Allow for inspections, maintenance and repairs
  - ❑ Allowing for security services
  - ❑ Deal with other critical matters relating to the closure of the place of business, if the critical matters cannot be attended to remotely
  - ❑ Access materials, goods or supplies that may be necessary for the business to be operated remotely

# *Employment Considerations*

## ■ Consider:

- “Temporary” reductions in hours/rates of pay
- Reduce to “skeleton crew”
- Complete office closure
- Employees may take vacation or use lieu time

## ■ Temporary layoff

- 13 weeks if benefits are not continued
- 35 weeks if benefits are continued

# *Termination of Employment*

- Importance of employment contracts

- *Employment Standards Act*

- Termination Pay

- ~1 week per year to maximum of 8 weeks

- Severance Pay

- Large employers – Payroll over \$2.5 million

- 5+ years of service

- 1 week per year to maximum of 26 weeks

- Exception for “construction employees”

# *Termination of Employment*

- Common law – “reasonable notice”
  - If no enforceable employment contract limiting to *ESA* or other amount
    - Judge will consider
      - Age, tenure, role and salary, available positions, etc.
    - ~1 month per year to max of 24
- Recommendation
  - Make an offer and get a release



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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)
- Termination – Code “M” (Dismissal)
- Employee chooses not to come to work but is not sick or self-isolating – Code “E” (Quit) or “N” (Leave of Absence)

# *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

# *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
  - ❑ 75% subsidy (max of \$847 per week per employee)
  - ❑ Not combined with 10% subsidy

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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

# *Occupational Health and Safety Act*

- Increased inspections by Ministry of Labour
  - Be prepared
- Duties in Act and regulation
  - *Construction Projects, O Reg 213/91*
- Obligation to provide “facilities”
  - Toilets and hand washing stations
- Obligation to provide potable drinking water

# *Health and Safety – COVID-19*

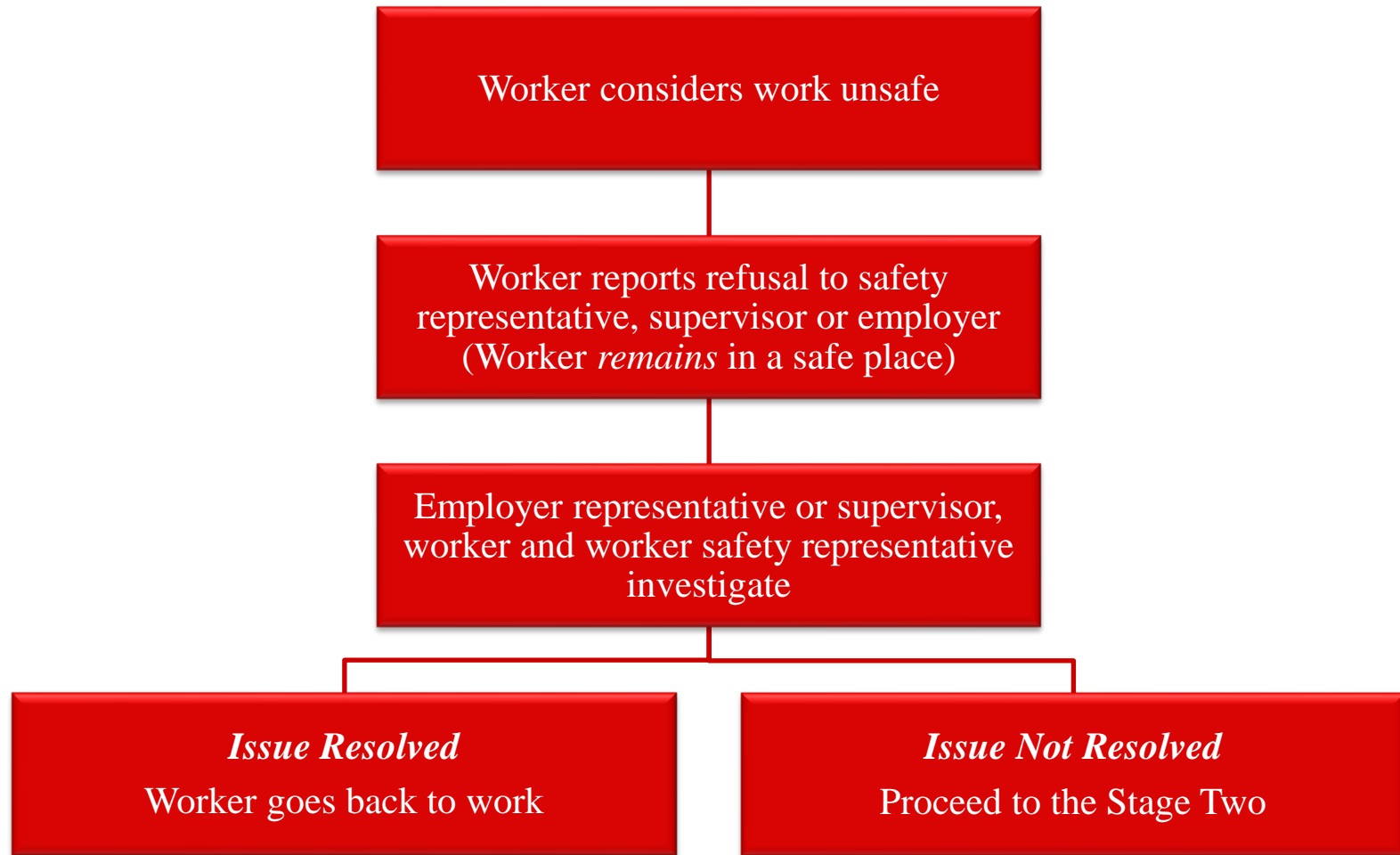
- Minimize groups of workers
  - Stagger start and end times, breaks and lunch
  - Changes to toolbox and safety talks
  - Limits on workers in a hoist or on site
  - Remove coffee truck, stagger deliveries
- Sanitize tools, equipment and work locations
- Remind workers of actions to minimize transmission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

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# *Health and Safety – COVID-19*

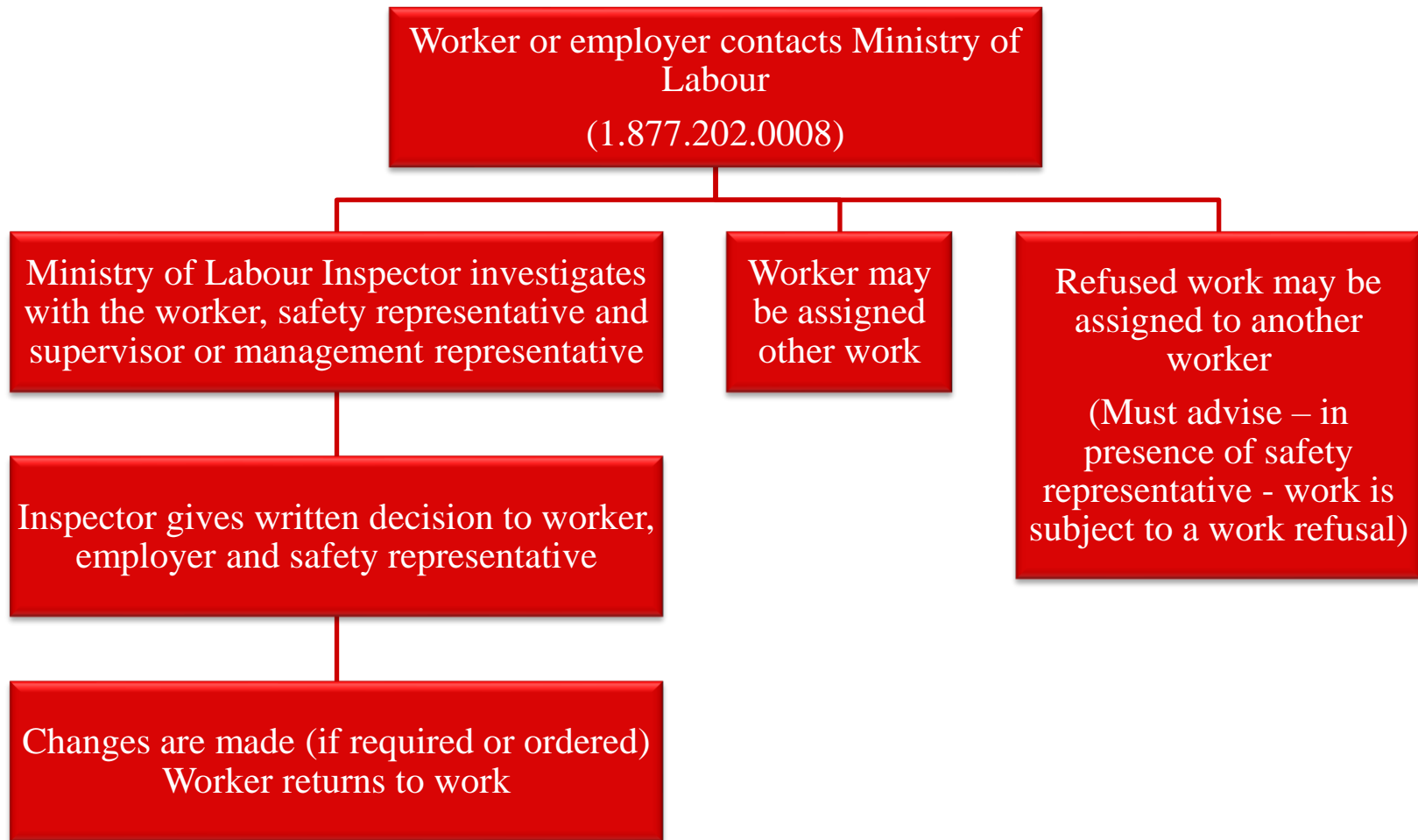
- What about working 6 feet apart?
  - Consider PPE (masks) for people working close together
- Ministry of Labour guidelines (March 29)
  - Construction site health and safety during COVID-19

# *Work Refusals – Stage One*





# *Work Refusals – Stage Two*



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# *Next Steps*

- Are you really “essential”?
  - Be on the right side of history
- Be a “best boss”
- Consider office operations
- Communicate with workers and unions
- Ensure health and safety measures are met
- *Wash your hands...*

# Questions?



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