



THE EMPLOYERS' CONSULTATIVE ASSOCIATION OF TRINIDAD AND TOBAGO

EYE ON IR

A product of the Research and Representation Department

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SEPTEMBER, 2008

The Premier Employers' Organization

The ECA's primary concern is to help create and sustain the conditions in which YOU – THE EMPLOYER can effectively compete. We are the premier lobbying organization for employers on national and international issues. We work with the Government, international legislators and policymakers to help employers compete successfully.

Membership in the ECA gives you a chance to be part of a collective voice and to influence public policy. We provide you with excellent opportunities to network and to establish new contacts, insights relating to the future of government labour policy, key statistics and research and unmatched sources of expert advice and information.

JOIN NOW!

Contact: Bryan Rooplal
Tel: 625-4723 ext. 244

How to Manage Employees Refusing to Work under the Occupational Safety and Health Act 2004?

Ancil Rampersad, ESC

The Occupational Safety and Health Act (OSHA) 2004 contains provisions for an employee to refuse dangerous work:

"where he has reasons to believe that –
(a) there is serious imminent danger to himself or others or unusual circumstances have arisen which are hazardous or injurious to health or life....."

Employers should be acutely aware of the procedure to handle such a refusal as contained in the Act, bearing in mind the implications of Section 20A.

Sections 16 to 20 outline the procedure following a refusal to work.

The employee must immediately report the circumstances for the intended refusal to the employer or the Occupational Safety and Health

Committee (OSH Committee). The employer shall then cause the OSH Committee to investigate and report on the matter. If there is no OSH Committee then the matter shall be reported to the Chief Inspector who shall then appoint an inspector to investigate and report his findings within twenty-four (24) hours.

Based on this report, remedial action may be necessary or it may be decided that the circumstances are not dangerous.

Employers should note the importance of establishing an OSH Committee as it provides a first line of defence to frivolous claims. If such claims are caught by the OSH Committee, the process of referring it to an Inspector and waiting for up to twenty-four (24) hours for his findings would be eliminated as the Committee can decide initially that the refusal is not reasonable and that

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ECA on Proposed Union Shutdown of the Country on 18th July 2008

Martin DeGannes, ECA

The Employers' Consultative Association (ECA) strongly condemns the proposal by certain Trade Unions and other elements of the labour movement for a shutdown of the country on Friday 18 July, 2008 and again in September 2008.

The labour movement has tried to justify their proposal by citing national issues and other issues which are central to the relationship between the tripartite partners - Labour, Government and Employers. The issues include what the Unions have described as the "attack on free collective bargaining by the public sector negotiating committee; failure of government to reform labour legislation; exploitation of workers through contract labour and retrenchment in local government."

In relation to the general industrial relations climate in the country and workplace legislation and collective bargaining in particular, the ECA is

satisfied that the Government has supported and maintained the arrangements for consistent dialogue between the social partners. The Minister of Labour and other Ministers of Government have consistently discussed their plans and objectives and have taken into consideration the views of the social partners. A most recent manifestation of this was the Government's support - yet again - for the full participation of the social partners at the International Labour Conference in Geneva and the Cabinet approval for the establishment of the National Productivity Council, a project initiated by the ECA and fully supported by the ILO and NATUC.

There are many other instances where the Government has continued to demonstrate its respect for and support of the long standing

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Refusing to Work under OSHA 2004 (continued from page 1)

no further action is necessary.

Of course, this in no way means that an employer has lost the right to discipline his employees. Section 10(3) states clearly, "An employer may discipline, in the customary manner, an employee who breaks the safety provisions of this Act."

Section 10(1) outlines several duties imposed upon employees

- (a) to take reasonable care for the safety and health of himself and others.....
- (b) as regards any duty or requirement imposed on his employer, to cooperate with him so far as is necessary to ensure that that duty.....is complied with....
- (c) to report to the employer any contravention under this Act
- (d) to correctly use any personal protective equipment or other device provided for his use
- (e) to exercise his discretion under section 15 (to refuse work) in a responsible manner
- (f) to ensure that he is not under the influence of an intoxicant..... to endanger his or another's safety

We therefore see that section 10(3) can become operative if the employee breaches any provision outlined above or any other 'safety provision of the Act'. It can be said therefore that, "**In no way has the right of management to discipline been undermined.**"

Employers should rest assured that the ECA/ESC is available to provide advice and consultancy services on all aspects of Occupational Safety and Health including Audits, Risk Assessments, Training for staff, Preparation of Policies and establishing OSH Committees.

We also have publications on this issue and interested persons can contact our Librarian, Ms. Leslie Ann Williams at 625-4723 ext. 225 for further information.

New Publications For Sale!

Handbook of Wages and Salaries 2007/08

Industrial Relations Guidelines – Termination of Employment

Do You Want...

Recent Industrial Court Judgements?

The latest Collective Agreements?

Contact:
Leslie Ann Williams
Tel: 625-4723 ext. 225

Managing Substance Abuse in the Workplace

Bryan Rooplal, ECA

Problems relating to substance abuse in the workplace may arise as a consequence of many factors - personal, family, social and even work. Such problems not only have an adverse effect on the well-being of the worker, but may also cause many work-related problems including deterioration in job performance.

Given that there are multiple causes of substance abuse related problems, there are consequently multiple approaches to prevention, assistance, treatment and rehabilitation.

It is in this context that it is recommended that employers should consider that workers who have substance abuse problems may be suffering from a health problem. In such circumstances, the employer should normally offer counselling, treatment and rehabilitation alternatives before consideration is given to the imposition of disciplinary measures.

The ECA's position is that it must be recognized that the employer has authority to discipline

workers for employment-related misconduct associated with substance abuse e.g. violence, poor performance and negligence. However, counselling, treatment and rehabilitation should be preferred to disciplinary action. The important factor however is, should a worker fail to cooperate fully with the treatment programme, the employer may take disciplinary action as considered appropriate in keeping with its disciplinary code and good industrial relations practice.

It should be noted that disciplinary rules concerning substance abuse should be elaborated by the employer in consultation and cooperation with workers and such rules should be communicated to workers so that they clearly understand what is prohibited and the sanctions for violation of the rules.

Lastly, information, education and training programmes concerning alcohol and drugs should include the circumstances which could lead to

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Trends in Industrial Relations

Bryan Rooplal, ECA

Index of Retail Prices

January 2003=100

Month	All items	Food and Non-Alcoholic Beverages
January	139.9	242.7
February	139.6	241.1
March	140.4	245.8
April	141.3	246.0
May	143.1	255.8
June	145.5	262.3
July	148.9	274.6

Wage Settlements

Details	Outcomes
Number of Agreements	19
Average Settlement	15% over 3 years
Highest Settlement	17% over 3 years
Lowest Settlement	11% over 3 years

Awards of the Court

Fifty-five (55) judgments were delivered during the first six months of 2008. Employers won twenty-nine (29) judgments while trade unions won twenty-three (23).

Party	Number	Percentage (%)
Employer	29	53%
Union	23	42%
Cannot be ascertained	3	5%

Research Services

Wages and Salaries
Comparability Studies

Terms and Conditions of
Employment

Industrial Policy

Labour Market Trends

Principles and Practices of
Good Industrial Relations

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Aisha Kujifi

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We Thank You!

The ECA wishes to publicly thank its members for their continued support over the past 48 years and reiterate that our dedicated staff is always happy to assist with advice, detailed information, consultancy and other services of direct relevance to your business.

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Country Shutdown (continued from page 1)

tradition and in some cases legal obligation to consult with and consider the views of the social partners.

The ECA is not blind to the global debate on rising food prices, rising energy costs, the deprivation of children, safety and security and many other modern challenges. We have spoken and written about these issues because they also affect us, as employers, and our employees. These issues have been raised by us with the Minister of Finance in our submission on the Budget 2008/9 and in every case we have offered practical suggestions to the Honourable Minister of Labour on the way forward.

Shutting down the country will not advance our cause. Social dialogue will. This is the view of the country's employers and we say this to our social partner.

Tell us...

Articles you would like to see in forthcoming issues?

Would you like to write articles?

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Substance Abuse (continued from page 2)

disciplinary measures, including dismissal, as a result of drug-related problems.

Coming in November!

Summary of Key Judgments

Managing Stress

Updated Retail Price Index, Wage Settlements

Plus MORE...

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Users are advised that this publication is intended as a reference document and the ECA does not represent the information herein to be definitive or all-inclusive.

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