

March 18, 2020

COVID-19 - Questions and Answers

General Statement – The Federal and Provincial Government continue to react to the Covid-19 (coronavirus) pandemic. While the answers set out below were accurate at the time of writing, you should always be aware of new developments. The Union recommends that you consult government sources for accurate information, including:

Government of Ontario: <https://www.ontario.ca/page/2019-novel-coronavirus>

Government of Canada : <https://www.canada.ca/en/public-health/services/diseases/coronavirus-disease-covid-19.html>

Question 1: Is the union planning on shutting down job sites?

Each employer determines whether or not to continue operating. So long as they are operating, the Union will continue to represent you in your employment and to enforce the applicable collective agreement and work-related laws and statutes. If the employer temporarily shuts down, the Union will try to assist you in finding other work.

The practical reality is that many of our members wish to continue to work while it is safe for them to do so. The Union will assist its members by ensuring that all reasonable precautions have been put in place for their safety.

There are options available to the Union in terms of filing grievances against specific employers based on specific facts. The Union can also file complaints under the *Occupational Health and Safety Act* ("OHSA") alleging specific violations of that statute.

Employers employ our members and, in turn, have the responsibility for the safety of the workers they employ. Under OHSA, the Employer owes a duty under section 25(2)(h) to

take every reasonable precaution for the safety of the worker. This provision expressly provides:

Duties of Employer

s. 25(2) Without limiting the strict duty imposed by subsection (1), an employer shall,

(h) take every precaution reasonable in the circumstances for the protection of a worker;

Pursuant to OHSA every worker in Ontario has the right to refuse work that isn't safe. Section 43(3) provides:

Refusal to work

s. 43 (3) A worker may refuse to work or do particular work where he or she has reason to believe that,

(a) any equipment, machine, device or thing the worker is to use or operate is likely to endanger himself, herself or another worker;

(b) the physical condition of the workplace or the part thereof in which he or she works or is to work is likely to endanger himself or herself;

(b.1) workplace violence is likely to endanger himself or herself; or

(c) any equipment, machine, device or thing he or she is to use or operate or the physical condition of the workplace or the part thereof in which he or she works or is to work is in contravention of this Act or the regulations and such contravention is likely to endanger himself, herself or another worker.

On March 16, 2020 the Provincial Government announced that it intended to pass legislation which would provide job-protected leave to employees in isolation or quarantine due to COVID-19, or those who need to be away from work to care for children because of school or day care closures. If passed, this will be retroactive to January 25, 2020.

Question 2: Is my job site safe?

Construction sites and industrial workplaces can be inherently dangerous places. Throughout your working careers you have been trained to be aware of your surroundings and to identify health and safety risks. You know that if you see something which is not right or which is unsafe, then you should say something to your employer.

The COVID-19 pandemic has raised the possibility of new health and safety risks on the job-site. You should consider:

- Whether hand-sanitizer or hand washing facilities are available
- Whether bathroom / or portable toilet facilities are being cleaned and inspected
- Whether co-workers who are subject to self-isolation or quarantine are in breach of those requirements.
- Whether there have been any positive tests in the workplace.

If you see something, say something. Your employer must take all reasonable precautions to protect workers and should investigate and where possible remedy any safety issues. If action is not taken to remedy a health and safety risk, you have a right to refuse work in accordance with section 43 of OHSA. If you have concerns about your health and safety, you should refuse and immediately report the situation to your employer, your union representative and the Ministry of Labour who can be reached at: 1-877-202-0008.

We are all concerned about our health and we must also remain respectful of others. If you are sick, do not go to work.

Question 3: Now that our health officials advised that there should be no more than 50 people in a gathering, will the local implement measures on larger job sites?

The direction for now is to avoid gatherings of 50 or more people. The employer has the obligation to keep the job site safe and to take reasonable precautions to protect workers. The Union expects employers to be aware of this requirement and to ensure that they comply. If you believe that the job site is not safe (due to the number of people or for other reasons) you have the right to refuse work.

Question 4: What can the Local do to protect workers rights?

The Union can and will file any and all grievances and occupational health and safety complaints necessary to hold contractors and employers liable for any violations of law and the applicable collective agreement. The Union will take steps to protect any member who refuses unsafe work, or who takes time off work in accordance with Provincial or Federal health guidelines and recommendations. Any specific concerns should be raised with your Union representative, preferably in writing, with as much detail or particulars as possible (we need the who, what, when, where, other witnesses etc.) together with a phone number where they can call you back.

Question 5: With the state of emergency declared, are we still expected to go to work and put ourselves at risk?

Premier Ford announced on the morning of Tuesday March 17, 2020 that Ontario was under a state of emergency. The following establishments are legally required to close immediately: All facilities providing indoor recreational programs; All public libraries; All private schools as defined in the *Education Act*; All licensed child care centres; All bars and restaurants, except to the extent that such facilities provide takeout food and delivery; All theatres including those offering live performances of music, dance, and other art forms, as well as cinemas that show movies; and Concert venues. Further, all organized public events of over fifty people are also prohibited, including parades and events and communal services within places of worship. These orders were approved by the Lieutenant Governor in Council and will remain in place until March 31, 2020, at which point they will be reassessed and considered for extension, unless this order is terminated earlier.

Premier Ford also identified activities and business which were not impacted including public transit, grocery stores and most importantly, for many of our members, those employed in construction. That is, the state of emergency does not close, or necessarily affect construction sites or many industrial workplaces which employ LiUNA members.

If your workplace is open, subject to any specific health and safety concerns, you are expected to go to work. Employees who are required to attend work and are not covered

by the state of emergency including construction workers, always have a choice to make about withdrawing your services and quitting.

You also have the right to a safe work place and you should make any concerns you have known to your employer. It is always helpful to raise concerns in front of others so it can be verified down the road if need be. Better still put your concerns if any in writing and send to your employer and copy your union representative. As noted above you have the right to refuse unsafe work under the OHSA.

Everyone directed by their employer to not attend work or who are currently isolating due to medical advice or are a returning traveller should follow those directions and keep their employer informed where needed. We encourage everyone to follow the advice and direction they have been given by third parties including your employer.

If you believe that you are risking your health by attending work and seek to withdraw your services and/or request a medical lay-off then that is your choice. On March 16, 2020 the Provincial Government announced that it intended to pass legislation which would provide job-protected leave to employees in isolation or quarantine due to COVID-19, or those who need to e away from work to care for children due to school or day care closures. You should consider whether any of those protections apply to you, and if so, advise your employer of that reason when you refuse work or seek a medical-layoff.

If you refuse to attend work the employer may seek to terminate your employment in which case we would, in the normal course file a grievance seeking your reinstatement. The outcome of any grievance is uncertain. We will investigate all grievances and fully consider the facts and potential defences. All grievances are assigned to legal counsel especially knowledgeable in labour law and construction labour law.

In the end the choice is yours. If you do not go to work without leave, or a valid reason, you may be deemed by your employer to have quit or may be terminated. If you are not attending work you should not expect that your employer will pay you.

Question 6: Are Training Centre programs cancelled?

All classes and courses at all LiUNA Training Centres are cancelled until further notice.

If you require mandatory training for the specific courses required by OHSa please call the Training Centre or Local office for further assistance.

Question 7: If the Training Centre is closed how do I update my courses?

All employees on construction sites are required to be current in WHMIS, OHSa and Working at Heights training. If your certificates are expiring while the Training Centre is closed you should advise your employer. WHMIS and OHSa refreshers may be done online, and are available while the Training Centre is closed.

The Employer may arrange for a private training provider for any other training that they require. It remains the position of the Union that you should be paid if you are sent to employer mandated training.

We have raised this issue with the Ministry of Labour and they are aware that it is an issue that will need to be addressed.

Question 8: Will there be any financial assistance for members during this time?

The Union does not pay out of work members, or members who are required to self-isolate or quarantine due to COVID-19. Members may seek financial assistance through Employment Insurance, or through the health and welfare plan.

Employment Insurance sickness benefits provide up to 15 weeks of income replacement and is available to eligible claimants who are unable to work because of illness, injury or quarantine, to allow them time to restore their health and return to work. Canadians quarantined can apply for Employment Insurance (EI) sickness benefits. Once those expire, members may be able to claim short term disability benefits through our health and welfare benefits.

It is ultimately the responsibility of the government to provide financial assistance to workers. On March 16, 2020 the Federal Government announced that it was considering forms of support for employees who are not eligible for EI benefits. LiUNA continues to

lobbying all levels of government to secure financial assistance for our members impacted by the virus. This however is a complicated matter for the various levels of government who are all being inundated with similar requests from the public and private sectors.

EI insurance is available to anyone impacted by the coronavirus and now not subject to any waiting period. The Federal Government recently set out information which is as follows:

The Government of Canada will **waive the one-week waiting period** for people **who are in quarantine or have been directed to self-isolate** and are claiming for Employment Insurance (EI) sickness benefits, at an estimated cost of \$5 million. The Government of Canada will also introduce enhancements to the Work-Sharing Program at an estimated cost of \$12 million to help employers who are experiencing a downturn in business due to COVID-19, and their workers. We are exploring additional measures to support other affected Canadians, including income support for those that are not eligible for EI sickness benefits.

Employment Insurance (EI) sickness benefits provide up to 15 weeks of income replacement and is available to eligible claimants who are unable to work because of illness, injury or quarantine, to allow them time to restore their health and return to work. Canadians quarantined can apply for Employment Insurance (EI) sickness benefits.

Service Canada is ready to support Canadians affected by COVID-19 and placed in quarantine, with the following support actions:

- The one-week waiting period for EI sickness benefits will be waived for new claimants who are quarantined so they can be paid for the first week of their claim.
- Establishing a new dedicated toll-free phone number to support enquiries related to waiving the EI sickness benefits waiting period.
 - Telephone: 1-833-381-2725
- Priority EI application processing for EI sickness claims for clients under quarantine.

Question 9: Is the Local Office Open to the Public?

All Local offices are currently closed with no access for members or the public. However, staff are available to answer members questions and provide dispatch services via telephone. To protect members and staff we are limiting all non-essential meetings and practicing social distancing as recommended by Provincial and Federal health authorities. We will let everyone know when the offices re-open.

Question 10: Union dues Payments

It is the responsibility of each member to pay their union dues and to remain in good standing. If you normally pay your monthly dues directly, you should continue to do so. If you are a construction member who has their monthly dues “checked off” and remitted, and are laid-off or otherwise not working, you should ensure that your monthly dues are up to date.

If you fail to pay your dues for 2 months you will be administratively suspended and will cease to be a member in good standing.

If you have any question about your dues status please contact your Business Representative.

Question 11: The financial market is in turmoil. Is my pension safe?

The Labourers’ Pension Fund of Central and Eastern Canada is a well-funded professionally managed pension. All LPF investments have been made under expert guidance and in a safe and diversified manner. The Fund is confident that it can deliver its promise to you.

Specific questions about individual pension entitlements or Fund performance should be directed to the Fund at: <http://www.lpfcec.org/> .

Fraternally,

Terry Varga
Business Manager

LiUNA!

Labourers' International Union of North America Local 607