



COMPLAINT

The following outlines a complaint filed under Section 127.1 of Part II of the Canada Labour Code (CLC).

My complaint is required by section 126(1)(j) of the CLC Part II, where every worker must report to the employer any situation that he/she believes to be a contravention of Part II of the Code by the employer, another worker or any other person.

Additionally, my complaint is also required under section 126(1)(g), that further requires that every worker must report to the employer anything or circumstance in a work place that is likely to be hazardous to the health or safety of the employee, or that of the other employees or other persons granted access to the work place by the employer.

My understanding is that the employer is required to respond to these reports as mandated in section 125(1)(z.02) of the Code.

This hazardous occurrence is in relation to my interaction with someone who has tested positive for Covid-19. I allege that the CBSA has refused to file a LAB 1070 Hazardous Occurrence Investigation. The CBSA has refused to allow the completing of a LAB 1070 Hazardous Occurrence Investigation report. The CBSA has refused to assign a qualified person to investigate the hazardous occurrence. The CBSA has refused to allow the participation of the workplace health and safety committee in investigating the hazardous occurrence.

In my opinion, the CBSA has not complied with the following CLC requirements:

- The CBSA has not followed their duties as per 125(1)(c) of the CLC Part II. This section of the Code requires that employers *“investigate, record and report in the manner and to the authorities as prescribed all accidents, occupational diseases and other hazardous occurrences know to the employer”*.
- The CBSA has not followed their duties as per 125(1)(g) of the CLC Part II. This section of the Code requires that employers *“keep and maintain in prescribed form and manner prescribed health and safety records”*.
- The CBSA has not followed their duties as per 125(1)(z02) of the CLC Part II. This section of the Code requires that employers *“respond as soon as possible to reports made by employees under paragraph 126(1)(g)”*.
- The CBSA has not followed their duties as per 125(1)(z11) of the CLC Part II. This section of the Code requires that employers *“provide to the policy committee, if any, and to the work place committee or the health and safety representative, a copy of any report on hazards in the work place, including an assessment of those hazards”*.
- The CBSA has not followed their duties as per 135(7)(e) of the CLC Part II. This section of the Code requires that a workplace committee *“shall participate in all of the inquiries, investigations, studies and inspections pertaining to the health and safety of employees, including any consultations that may be necessary with persons who are professionally or technically qualified to advise the committee on those matters”*.

- The CBSA has not followed their duties as per 135(7)(g) of the CLC Part II. This section of the Code requires that a workplace committee *“shall ensure that adequate records are maintained on work accidents, injuries and health hazards relating to the health and safety of employees and regularly monitor data relating to those accidents, injuries and hazards”*.

In my opinion, the CBSA has not complied with the following COHSR requirements:

- The CBSA has not followed their duties as per Part 15.4(1)(a) of the COHSR. This section of the Regulations requires that *“where an employer becomes aware of an accident, occupational disease or other hazardous occurrence affecting any of his employees in the course of employment, the employer shall, without delay, appoint a qualified person to carry out an investigation of the hazardous occurrence”*.
- The CBSA has not followed their duties as per Part 15.4(1)(b) of the COHSR. This section of the Regulations requires that *“where an employer becomes aware of an accident, occupational disease or other hazardous occurrence affecting any of his employees in the course of employment, the employer shall, without delay, notify the work place committee or the health and safety representative of the hazardous occurrence and of the name of the person appointed to investigate it”*.
- The CBSA has not followed their duties as per Part 15.4(1)(c) of the COHSR. This section of the Regulations requires that *“where an employer becomes aware of an accident, occupational disease or other hazardous occurrence affecting any of his employees in the course of employment, the employer shall, without delay, take necessary measures to prevent a recurrence of the hazardous occurrence”*.

Corrective actions

- I ask that a LAB 1070s be completed for my Covid-19 related hazardous occurrences.
- I ask that a hazardous occurrence investigation take place as per the CBSA Hazardous Occurrence Investigation Report Procedures.
- I ask that the employee members of the workplace health and safety committee be made aware of who the qualified person is.
- I ask that workplace health and safety committee receive training on Part XV of the COHSR, including what must be reported and how to conduct a proper hazardous occurrence investigation.