

There were some questions raised around COVID-19 and the return to work expectations. These are the answers supplied through consultation with our legal team. Where specific references are made to Ontario health care directives, provinces are asked to consult their provincial public health publications.

**1. Can an employer request written proof of the result of an employee's COVID test?**

Communities of faith, as employers in non-health care settings, currently cannot require employees, seeking to return to work following a period of self isolation or a confirmed or probable case of COVID-19, to provide proof of a negative test (by NAAT) or a positive serological test result to their employer. This response is consistent with the recommendations set out by Ontario Ministry of Health's in Version 13.1 on its on-line publication entitled, *COVID-19 Quick Reference Public Health Guidance on Testing and Clearance*, dated March 5, 2021. This publication can be accessed at:

[http://www.health.gov.on.ca/en/pro/programs/publichealth/coronavirus/docs/2019\\_testing\\_clearing\\_cases\\_guidance.pdf](http://www.health.gov.on.ca/en/pro/programs/publichealth/coronavirus/docs/2019_testing_clearing_cases_guidance.pdf)

**2. Can an employer refuse worksite access to an employee who is not vaccinated (when that opportunity comes, for example)?**

Communities of faith, as employers in non-health settings, are only able to refuse access to employees who do not pass the COVID-19 screening protocols. The link to current *Worker and Employee Screening* established by the Ontario Ministry as of March 3, 2021 can be accessed at: <https://covid-19.ontario.ca/screen-covid-19>

Non-health care employers cannot refuse worksite access to non-vaccinated employees. In fact, currently refusing to allow an non-vaccinated employee, who has passed the screening protocol, entry into the workplace currently bears the risk of a finding of constructive dismissal against the employer, with ensuing wrongful dismissal damages owing to the former employee.

**3. Will employees be required to show proof of vaccination?**

While it appears likely that individuals travelling abroad may be required to show proof of vaccination, at this time, it does not appear that there will be legislation requiring non-health care employees to provide proof of vaccination to their employers.

**4. Can an employee be required to come into the office as part of their job (a church administrator in this case)? The pastoral charge is indicating that for the most part, the job requires the employee to come into the church office. The employee is refusing because they are afraid of contracting COVID. What are the employer's rights in this case?**

Steps should be taken to understand the basis for the worker's concerns. Is the administrator afraid of contracting COVID-19 in the church building or on the bus/subway while getting to work? Is the administrator immune-compromised? What is the COVID-19 status in their geographical area? Has there been an outbreak at the church?

A worker has the right to refuse unsafe work. However, generally, if the employer has taken all reasonable precautions for the safety of the worker (i.e. thorough cleaning, mandatory screening before entry, temperature checks, hand sanitizer protocols, facemasks, social distancing, plexi-glass around the work area et cetera) the work will not be considered unsafe, and the Ministry of Labour will not support the work refusal.

Please note that the situation involving COVID-19 is continuing to evolve quickly. Communities of Faith are urged to keep up to date on by provincial regulations and public health guidelines and recommendations relating to COVID-19. These guidelines and recommendations will continue to evolve as:

- i) public health experts learn more the virus and its variants "of concern";
- ii) rapid reliable asymptomatic testing tools become available;
- iii) the vaccine rollout is completed; and/or,
- iv) the third wave arrives.

Reverend Marlene Britton  
Program Co-ordinator Admission & Pastoral Relations,  
Ministry & Employment Unit  
The United Church of Canada/L'Église Unie du Canada  
3250 Bloor Street West, Suite 200, Toronto, ON M8X 2Y4  
416 231 7680, 1-800 268 3781 ext. 6102