



Durham Social Housing Directives
Housing Services Division | Financial Housing Services
605 Rossland Rd E, Whitby L1N 6A3
905-668-7711 | 1-800-372-1102 | www.durham.ca

Subject: **REPORTING CRITICAL INJURIES OF NON-WORKERS**
Directive Number: **OPR 2013-01**
Date: **February 27, 2013**

Purpose

To advise housing providers of their obligations under the Occupational Health and Safety Act to report to the Ministry of Labour a critical injury or death of a non-worker in the workplace.

Background

The Ontario Court of Appeal recently overturned a decision of the Ontario Labour Relations Board (OLRB) and the Ontario Divisional Court requiring the reporting of the death or critical injury of any person in a workplace setting to the Ministry of Labour.

The circumstances of the original decision concerned the accidental drowning of a resort guest in the hotel pool at Blue Mountain Resorts. The OLRB and the Ontario Divisional Court held that employers and contractors are required to report a critical injury or death of a non-worker in the workplace to the Ministry of Labour (MOL) as outlined in section 51(1) of the *Occupational Health and Safety Act* (OHSA) - regardless of the circumstances.

The Court of Appeal ruled that for the reporting requirement to apply to a non-worker, there must be a reasonable connection between the hazard that gave rise to the death or critical injury and a realistic risk to worker safety at the workplace site.

Reporting Requirement

The buildings and grounds (including tenant/member units) of social housing projects are workplace settings. As such, any critical injury or death of a worker occurring at a housing project must be immediately reported to the Ministry of Labour Health and Safety Contact Centre. Within 48 hours, the housing provider must also notify the director of the Ministry of Labour in writing, giving the circumstances of the occurrence.

Critical injuries or deaths of non-workers that occur at a housing project are only reportable if there is a reasonable connection between the hazard that gave rise

to the death or critical injury and a realistic risk to worker safety at the housing project.

For example, the death of a senior tenant in their unit by natural causes is not reportable; however, finding a tenant unconscious due to a carbon monoxide leak would be reportable.

Critical Injury

Under Ontario Regulation 834 of the *Occupational Health and Safety Act*, a critical injury is an injury of a serious nature that:

- places life in jeopardy
- produces unconsciousness
- results in substantial loss of blood
- involves the fracture of a leg or arm but not a finger or toe
- involves the amputation of a leg, arm, hand or foot but not a finger or toe
- consists of burns to a major portion of the body, or
- causes the loss of sight in an eye.

Preservation of the Scene

Housing providers also have an obligation under section 51(2) of the OHSA to preserve the scene for inspection by the MOL in cases of critical injury or fatality in the workplace except to:

- save life or relieve human suffering
- maintain an essential public utility service or a public transportation system, or
- prevent unnecessary damage to equipment or other property.

If contacting the Ministry of Labour Health and Safety Contact Centre to report a critical injury or death at a housing project, housing providers are encouraged to inquire if the MOL requires the preservation of the scene. The name of the MOL official and detailed notes should be recorded and retained.

Ministry of Labour Contact Information

The Ministry of Labour Health and Safety Contact Centre can be reached at 1-877-202-0008.

Additional Information

More information about the *Occupational Health and Safety Act* as well as reporting obligations are available on the [Ministry of Labour's website at http://www.labour.gov.on.ca/english/hs/incident.php](http://www.labour.gov.on.ca/english/hs/incident.php).

Housing providers may also contact the Housing Services Division for assistance.

Effective Date

The Court of Appeal decision was rendered February 7, 2013 (Blue Mountain Resorts Ltd. v. Bok Ontario).

Repealed Memo

This Directive replaces Memo 11-08 Reporting Critical Injuries of Non-Workers issued July 4, 2011.

Legislative Authority

Occupational Health and Safety Act, s 51(1)(2)
Ontario Regulation 834