



# NONSTOP

OCCUPATIONAL HEALTH AND SAFETY NEWSLETTER  
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## EDITO : HEALTH & SAFETY TUESDAYS: MEETINGS

Unions need training, organization and the right tools to play an effective role in health and safety. Drawing on the wealth of experience we acquired during the pandemic, we have decided to maintain the model we developed during the health crisis and hold regular working meetings on occupational health and safety (OHS) in every sector in order to support all the unions in the Federation.

These meetings take different forms and are tailored to the needs of each sector. They are an opportunity to acquire OHS training and share useful information that will undergird our prevention efforts. The information from the unions will also be very useful for the purposes of making representations in support of our demands. Health & Safety Tuesdays will also help us develop the training, newsletters, guides and tools needed to protect the health and safety of our members.

The objective is to help FSSS unions be active on the health and safety front. So we want to maintain an ongoing discussion about our health and safety efforts in order to share success stories and tackle challenges through cooperation and solidarity.

### We want to hear from you

The meetings generally deal with a particular theme, such as the implementation of the interim health and safety regime, psychosocial risks, complaints and inspections, and so on. Whenever possible, we invite professionals in the field to attend the meetings and help us explore each topic in greater depth. We have already selected several themes to be discussed at upcoming Health & Safety Tuesdays, including noise, the amendments to the Act Respecting Industrial Accidents and Occupational Diseases, and others.

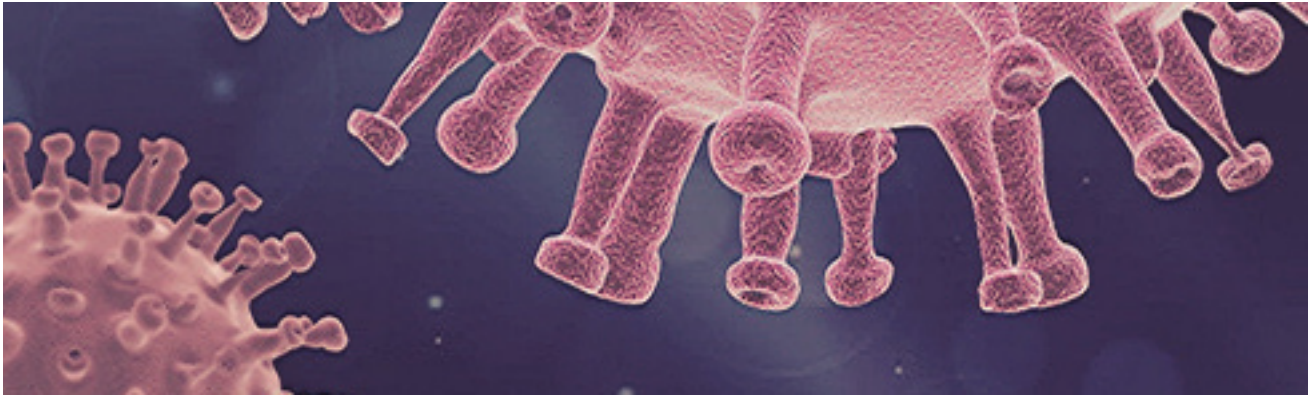
We'd like your input to help develop the Health & Safety Tuesdays program. Send your questions, comments and suggestions to [FSSS.mardisSST@csn.qc.ca](mailto:FSSS.mardisSST@csn.qc.ca).



Your contribution will help us work together to address health and safety issues in our workplaces and protect our members' well-being. We see each link in the chain as essential to our success and we believe that Health & Safety Tuesdays are be an effective tool for strengthening our chain.

I look forward to seeing you there!

*Judith Huot, First Vice-President, FSSS-CSN*



## DID THE EMPLOYEE GET COVID-19 AT WORK OR SOMEWHERE ELSE?

Three recent decisions by the health and safety division of the Administrative Labour Tribunal (ALT) went against the CNESST, which had rejected claims from employees who contended they had contracted COVID-19 at work. There are some common elements to these ALT decisions on the recognition of work-related injuries and entitlement to benefits, pursuant to the Act Respecting Industrial Accidents and Occupational Diseases.

It should be noted first of all that a COVID-19 diagnosis does not automatically mean there is a presumption of a work-related injury under sections 28 and 29 of the Act. The burden of proof lies with the employee, who must show that the infection resulted from a “sudden and unforeseen event within the meaning of the Act or that their illness is directly related to risks specific to their work.”<sup>1</sup> This must be demonstrated on the balance of probabilities, not as a medical certainty.<sup>2</sup>

### Proving the time of infection

This is what the ALT said about the determining when the person got COVID:

“According to the case law, the Tribunal is not called upon to determine the exact moment of infection, which could in many cases prove impossible. Rather, the Tribunal’s role is to assess the likelihood that the illness was contracted through work-related activity. If this hypothesis proves more likely than not, on the balance of probabilities, then the work-related nature of the illness will have been demonstrated. In the event of a ‘draw,’ in which neither possibility is more probable than the other, the party with the burden of proof will fail.”<sup>3</sup>

In all three cases, the employees were in regular close contact for prolonged periods of time (30 minutes or more) with one or more co-workers infected with COVID-19, and the nature of their work made it impossible to maintain physical distancing.

### Possibility of infection outside the workplace

The evidence showed that in their personal lives the employees complied scrupulously or to a reasonable degree with the health measures in effect at the time. In all three cases, the ALT found that the employees did not expose themselves to greater risks in their personal activities than in the workplace and that the probability of infection at work was greater than that of infection outside of work.

### See the decisions:

1. *Arbour-Trépanier and Ambulances St-Gabriel*, 2022 QC TAT 2147 (May 10, 2022): <https://canlii.ca/t/jp7m5>
2. *Perrault and Unidindon Inc.*, 2022 QCTAT 814 (February 21, 2022): <https://canlii.ca/t/jmnhd>
3. *Lamarche and Consolidated Fastfrate Inc.*, 2021 QCTAT 4580 (September 23, 2021): <https://canlii.ca/t/jjbcg>

<sup>1</sup> *Perrault and Unidindon*, 2022 QCTAT 814 (see paragraph 11)

<sup>2</sup> *Arbour-Trépanier and Ambulances St-Gabriel*, 2022 QCTAT 2147 (see paragraph 8, *Snell v. Farrell*, [1990] 2 RCS 311)

<sup>3</sup> *Idem* (see paragraph 23).

# HEALTH AND SAFETY SNIPPETS



## SST CHP DOMAINE SEIGNEUR LEPAGE

Click on the various links to access the information.

For the [latest on health and safety from the CSN](#).

For [health and safety news from the FSSS](#).

### Contents of the last Health & Safety Tuesdays

- [Modernizing health and safety: highlights and tools](#)
- [New obligations with respect to domestic violence and sexual abuse: highlights and tools](#)
- [Home childcare providers: rising to the health and safety challenge: highlights and tools](#)

### Upcoming Health & Safety Tuesdays

- October 11: Bargaining at the early childhood centres (CPEs) and health and safety clauses
- October 18: Discussion for intermediate and family-type resources (RI-RTFs)
- November 1: Training and discussion: complaints and inspections
- November 8: Discussion for the public sector, including follow-up on the forum on employees' general health

We also hope to hold Health & Safety Tuesdays on the amendments to the Act Respecting Industrial Accidents and Occupational Diseases and another on health and safety regulations. Watch the [calendar for FSSS activities!](#)

### Other upcoming health and safety events

- [Health and safety week, October 17–23](#).
- The 2022 Bilan et perspectives meeting will be held in early November. It's an opportunity for union health and safety officers to take stock and look ahead.
- [ASSTSAS events](#)

### Health and safety lunch & talk

[Videoconference discussions of the ASSTSAS](#) in the workplace.

### Training for our unions

The FSSS-CSN and the CSN offer their affiliated unions a variety of training sessions to support them in their health and safety work.

- [FSSS-CSN Training](#)
- [CSN Training](#)

### ASSTSAS Training

- [Calendar of ASSTSAS training sessions](#).
- [ASSTSAS YouTube channel](#) with past webinars and training sessions.

Le Domaine Seigneur Lepage is a private residential care centre (CHP) in Rimouski. Its FSSS-affiliated union, the Syndicat du personnel des centres d'hébergement et des institutions religieuses Rimouski-Neigette (CSN), has 80 members. Since the region's CHPs and its religious institution merged, the union has started playing an active role in occupational health and safety. Here's its success story.

From May 5 to July 6, 2022, kitchen workers at the CHP had to endure temperatures in the 35-42° C range. Why? A problem with a range hood. Unfortunately, one defective exhaust fan meant employees had to work in excessive heat for two months, during which the employer rejected the union's repeated requests to have it fixed. Finally, on July 6, 2022, the union filed a written complaint with the CNESST.

On July 21, the employer advised the CNESST that the fan motor had been replaced. To make sure, the CNESST inspector asked the employer for the invoice so that he wouldn't have to make an inspection visit. 40 days later, having received no response, he went to the centre and was able to confirm that the equipment had in fact been repaired. The file is closed.

Hats off to the union for its tenacity in standing up for health and safety!