

Can You Fire an Employee Who Can't Return to Canada Due to Travel Restrictions?



QUESTION

An employee who went back home in India in February and was due to return to work in March can't return to Canada because of COVID-19 travel restrictions. Do we have to keep paying her? Can we end her employment? We're in BC.

ANSWER

No, you don't have to pay her; but no, you can't terminate, her either.

EXPLANATION

No, you can't. In BC, as in most jurisdictions, employees who can't reasonably travel to the province due to COVID-19 travel restrictions are deemed to be on COVID-19 leave and can't be terminated for as long as they remain willing but unable to return. (BC, *Employment Standards Act*, Section 52.12(2)(e) and Section Sec. 52.12(3)). However, COVID-19 leave is unpaid.

The rule is the same in all other jurisdictions with the exceptions of those that either:

- Don't provide for COVID-19 leave: Nova Scotia, Québec, Northwest Territories and Nunavut; and/or
- Do have COVID-19 leave but it doesn't specifically apply to persons who can't return to the jurisdiction as a result of travel restrictions: Alberta and Yukon.