

Ask The Expert – Record Retention After Employee Death



Ontario employers should use a record-retention schedule based on the type of record rather than relying on a single seven-year rule for every personnel file.

Different employment, payroll, recruitment, and volunteer records may have different retention periods, and an employee's death does not shorten an otherwise applicable retention requirement.

QUESTION

We are reviewing our Ontario HR record-retention practices and have seen different references to three-, five-, six-, and seven-year retention periods. How long should we keep employee records after someone leaves the organization, and does anything change if the employee has passed away?

ANSWER

Core records such as an employee's name, address and start date generally must be retained for three years after employment ends, while vacation records have their own longer retention requirements. Ontario's newer recruitment provisions also require covered employers to retain publicly advertised job postings, associated application forms and prescribed applicant information for three years.

An employee's death does not ordinarily reduce these retention periods. Where a requirement runs from when employment ends, the employee's death would generally mark the end of employment and the normal retention period would continue from there.

EXPLANATION

The often-cited seven-year period may come from an internal HR practice or a specific law rather than the ESA generally. For example, certain records under Ontario's *Employment Protection for Foreign Nationals Act* must be kept for seven years, while CRA records are generally retained for six years from the end of the relevant tax year.

Organizations should also keep volunteer postings, applications, interview notes, and selection records for a consistent internal period, such as two to three years, while

limiting access to sensitive information. The Ontario Human Rights Commission also takes the position that Human Rights Code protections can extend to volunteers in work-like relationships.