Ask The Expert – Vacation Carry-Over Policies in Ontario



A well-written vacation policy helps employers balance operational needs while remaining compliant with Employment Standards.

Understanding the rules around vacation carry-over and payout can help reduce legal risk and employee confusion.

QUESTION

Can our vacation carry-over policy require employees to use vacation by March 31 of the following year, pay out any remaining balance afterward, and forfeit vacation above the statutory minimum if it isn't approved for carry-over?

ANSWER

Your proposed policy is generally consistent with the Ontario ESA, but there are important areas to clarify. Statutory vacation time cannot simply be paid out if it has not been taken. The ESA requires employees to actually take their minimum vacation entitlement within 10 months of the end of the vacation entitlement year, except in limited circumstances.

EXPLANATION

Your policy should clearly distinguish between statutory vacation required under the ESA and any additional employer-provided vacation. While employers have greater flexibility with vacation beyond the ESA minimum, forfeiture provisions should only apply where employees had a reasonable opportunity to use the time and the policy is clearly communicated and consistently applied.

It is also advisable to reserve the right to schedule statutory vacation where necessary to ensure compliance with the ESA and to clearly outline the approval process for carry-over requests. These measures help reduce compliance risks while promoting fair and consistent vacation administration.