B.C. teaching assistant’s OnlyFans page raises questions of what’s appropriate outside work



Actions that cast your employer in a bad light can put your job in jeopardy.

In the not-so-distant past, an employee’s off-duty conduct was of little to no concern to an employer. However, in recent years, the line between an individual’s private life and the workplace has become increasingly blurred. Companies have become more aware of the risks and liabilities to the business associated with bullying, harassment and other inappropriate online conduct that their staff may engage in outside of work hours. While employees generally have the legal right to express themselves online, there may be repercussions for expression that is offensive, inappropriate or contrary to an employer’s core values.

In May, a British Columbia teaching assistant, Kristin MacDonald, found herself embroiled in conflict with her employer over her controversial social media presence on OnlyFans, a subscription-based service used primarily to sell adult content.

In exchange for money generated from her subscribers, MacDonald posted several erotic photos and videos of herself under a pseudonym. She did not link her professional email and phone number to the OnlyFans account. She also blocked school staff from her OnlyFans page thereby attempting to keep her private life as private as she could.

Nevertheless, complaints reportedly surfaced shortly thereafter about MacDonald’s presence on the platform.

When Terry Fox Secondary in Port Coquitlam learned of the erotic content MacDonald uploaded, the school demanded she “immediately cease all activity and to remove all online social media accounts including but not limited to Facebook, Instagram, TikTok and OnlyFans” or, risk being fired, according to a letter reported on by CBC News.

The Coquitlam School District’s Administrative Procedure Policy expressly provides that employees of the district are “role models” within the community. As such, they must not engage in “off-duty activities, including online and social media activity, which … may negatively affect the district’s operations, reputation or work environment.” The policy also provides that any breach may result in disciplinary action up to and including termination.

The district will likely be relying on this policy to discipline MacDonald if she does not comply with their demand and delete the page.

One can sympathize with MacDonald, who claims that her inability to earn a livable wage at the school had forced her to supplement her annual $50,000 salary in order to support her family. However, while her decision may be understandable, it is not free from consequences. The Coquitlam School District has every right to insist on the strict application of its policy, especially when applied in the context of an educational setting where propriety and professionalism are fundamental.

If MacDonald chooses not to comply, the district may well have just cause to terminate her. She is unionized and therefore otherwise afforded job security.

Adjudicators have looked at a variety of factors in determining whether off-duty conduct amounts to just cause. They have considered whether an employee's actions damaged the employer's public reputation or interests, whether the off-duty conduct rendered the employee unable to discharge their employment obligations, whether the conduct led to a refusal, reluctance or inability by other employees to work with the employee, and whether the conduct negatively impacted the company's ability to efficiently manage its workforce.

They have similarly found that where employers have terminated based on a breach of an off-duty conduct policy, the policy should have clearly set out termination as a consequence of the breach.

Not all inappropriate online conduct necessitates termination for cause. Before making any disciplinary decisions, employers ought to investigate, provide the employee with the opportunity to explain what was said, posted or done, and assess the conduct's impact on the operations and reputation of the business.

Whether or not a refusal by MacDonald to take down her social media content will constitute just cause will ultimately be up to an adjudicator to decide. However, most school districts faced with this conundrum would likely turn over every stone to find cause.

The hard truth is that MacDonald may have the right to choose her line of work — but not without consequences.

Source:

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