Compliance Is Catching Up: Why Burnout During Busy Periods Is Becoming a Legal Risk



The Shift From Cultural Issue to Legal Exposure

For years, burnout has been discussed primarily as a cultural or wellbeing issue. Organizations have approached it through engagement initiatives, wellness programs, and leadership development, often framing it as something to be managed rather than something that could create formal risk.

That framing is changing.

Across Canada, there is a growing expectation that employers are responsible not only for physical safety, but also for the psychological conditions under which work is performed. As this expectation evolves, the line between culture and compliance is becoming increasingly blurred.

Burnout during busy fiscal periods sits directly within that grey area. It is often predictable, frequently recurring, and in many cases tied to how work is structured rather than unforeseen circumstances. When these conditions are left unaddressed, they begin to resemble something more than a temporary strain. They begin to look like a foreseeable workplace hazard.

For HR leaders, this shift requires a different level of attention. Burnout is no longer just something to mitigate. It is something that may need to be defensible.

Understanding Psychological Safety as an Employer Obligation

The concept of psychological safety in the workplace has moved from theory into practice, and increasingly into expectation.

The National Standard of Canada for Psychological Health and Safety in the Workplace (CSA Z1003) provides a comprehensive framework for identifying and managing psychosocial risks. While it is not legislated in the same way as occupational health and safety statutes, it is being used as a benchmark for what reasonable employers should be doing to protect employee wellbeing.

Within this framework, excessive workload, lack of control, and insufficient support are all recognized as factors that can contribute to psychological harm. Busy fiscal

periods, particularly those that are known in advance and occur regularly, can amplify each of these factors.

When employees are consistently required to work extended hours under sustained pressure, with limited opportunity for recovery, the risk is not incidental. It is embedded in how the work is organized.

This is where the compliance lens becomes relevant.

When Workload Becomes a Foreseeable Risk

One of the key principles in occupational health and safety is foreseeability. Employers are expected to identify hazards that are reasonably predictable and take steps to mitigate them.

Busy fiscal periods meet this threshold.

Organizations know when they will occur. They understand the demands associated with them. In many cases, they have historical data that demonstrates the impact on workload, hours, and employee experience.

When burnout arises under these conditions, it is difficult to argue that it was unexpected.

This does not mean that all stress or pressure creates liability. Work, by its nature, involves periods of intensity. The distinction lies in whether the organization has taken reasonable steps to manage that intensity.

If peak periods are consistently associated with excessive workload, inadequate support, and insufficient recovery, the organization may be exposed to claims that it failed to provide a safe work environment.

What the Courts Are Beginning to Recognize

Canadian courts have historically been cautious in recognizing claims related to workplace stress. However, there is a clear trend toward greater acknowledgment of psychological harm, particularly where employer conduct contributes to that harm.

In Boucher v. Wal-Mart Canada Corp., the Ontario Court of Appeal upheld significant damages related to workplace harassment and the employer’s failure to intervene appropriately. While the case focused on harassment, it reinforced the principle that employers have a responsibility to address harmful workplace conditions when they are aware of them.

Similarly, in Piresferreira v. Ayotte, the court recognized the impact of workplace conduct on an employee’s mental wellbeing, even as it limited the scope of certain legal claims. The broader takeaway is that courts are increasingly attentive to how workplace environments affect employees beyond purely physical considerations.

Constructive dismissal claims have also evolved to include circumstances where working conditions become intolerable, including excessive workload or sustained pressure without adequate support. While each case depends on its specific facts, the direction is clear. Employers are expected to act when conditions become unreasonable.

For HR leaders, this means that patterns of burnout during predictable periods may not remain purely internal issues.

The Documentation Gap That Creates Exposure

One of the most significant risks organizations face is not simply the existence of burnout, but the absence of documentation demonstrating that it was managed appropriately.

When claims arise, the question is not whether employees experienced stress. It is whether the employer took reasonable steps to mitigate it.

This is where many organizations are vulnerable.

Workload expectations may not be formally documented. Support measures may be informal or inconsistently applied. Managers may make decisions in real time without clear records of how those decisions were reached.

In the absence of documentation, it becomes difficult to demonstrate that the organization acted responsibly.

This does not require exhaustive recordkeeping, but it does require intentionality. Decisions about workload, timelines, and support should be made with an awareness that they may need to be explained and justified later.

Moving From Informal Practices to Defensible Processes

To reduce risk, organizations need to shift from informal management of peak periods to more structured and defensible approaches.

This begins with planning.

If a busy period is known in advance, there should be a documented plan that outlines expected workload, resource allocation, and support measures. This plan does not need to eliminate pressure, but it should demonstrate that the organization has considered how to manage it.

During the peak period, managers should be equipped to monitor workload and respond to emerging issues. This includes having clear escalation paths if demands exceed capacity.

After the period ends, there should be a review process. What worked, what did not, and what adjustments are needed for the next cycle. This creates a continuous improvement loop that strengthens the organization’s ability to manage risk over time.

The Role of HR as a Risk Advisor

HR’s role in this context extends beyond policy and into advisory.

Leaders may not always recognize the legal implications of how peak periods are managed. HR can provide the necessary perspective, connecting operational decisions to potential risk.

This includes challenging assumptions about what is “normal” or “necessary,” particularly when those assumptions lead to repeated patterns of overload. It also involves ensuring that managers understand their responsibilities and are supported in meeting them.

By positioning burnout as a risk management issue, HR can elevate the conversation and influence decisions at a more strategic level.

When Predictable Pressure Becomes Preventable Risk

Burnout during busy periods has long been accepted as part of organizational life. It has been framed as temporary, necessary, and ultimately manageable.

That framing is becoming less sustainable.

As expectations around psychological safety continue to evolve, organizations are being asked to demonstrate that they are not only aware of the pressures their employees face, but that they are taking reasonable steps to address them.

Predictable burnout is no longer just a cultural issue. It is a signal.

For HR leaders, the opportunity is to act on that signal before it becomes a liability. This means moving beyond informal practices and toward structured, defensible processes that align with both operational needs and emerging expectations.

The goal is not to eliminate pressure entirely. It is to ensure that when pressure is applied, it is managed in a way that is both effective and responsible.

Because in today’s environment, how you manage your busiest periods may matter just as much as what you achieve during them.