Don’t Forget to Include Vaping in Your Workplace Smoking Policy



Employee busted for vaping collects $15,000 due to unclear policy.

No Smoking Policy

ABC Company is committed to maintaining a completely smoke-free workplace and does not permit smoking in any part of its facilities and property, including Company vehicles. Persons who violate this ban will be asked to leave the property and, if they are ABC Company employees, be subject to discipline.

QUESTION

What’s wrong with this Policy?

ANSWER

The Policy addresses smoking but doesn’t say anything about vaping.

PRACTICAL IMPACT

Vaping is almost as unhealthy to users and bystanders as smoking. But if your workplace smoking policies ban only smoking, you may have a hard time enforcing them against employees who vape. A dairy plant in Ontario just learned this lesson the hard way. The problems began when the plant fired a warehouse attendant after a surveillance camera clearly showed him vaping in the storage facility. But the Ontario court ruled that the plant didn’t have just cause and awarded the attendant $15,000 in damages.

There was confusion among employees as to whether vaping was allowed because the plant’s no-smoking policy didn’t mention vaping. And while the attendant exposed the plant to risk of liability under the *Smoke Free Ontario Act* and food safety laws, he should have at least gotten a warning and a chance to mend his ways like 2 other workers who also got caught vaping did [*Attzs v. Saputo Dairy Products Canada G.P.*, 2020 ONSC 5512 (CanLII), September 14, 2020].