Employee Privacy Concerns on Job Sites – Ask The Expert



Workplace safety extends beyond physical hazards, so what happens when employees feel uncomfortable or unsafe due to being recorded while performing their work?

Ensure your organization understands both privacy considerations and its obligations to protect workers in these situations.

Question

Are there privacy laws or regulations that protect employees from being recorded without consent while working, and can we refuse to send staff back to a job site under these circumstances?

Answer

Across Canada, there is generally no absolute prohibition against being recorded without consent in public or semi-public settings. Privacy laws such as the Personal Information Protection and Electronic Documents Act (PIPEDA) typically apply to organizations engaged in commercial activities, not private individuals recording from their own property for personal reasons. As a result, a neighbour recording workers from their property is not automatically in violation of privacy laws.

However, there are limits. If the recording becomes intrusive—such as persistent surveillance, targeting specific individuals, or capturing areas where there is a reasonable expectation of privacy—it could potentially lead to civil claims, including intrusion upon seclusion or harassment in more serious cases.

Explanation

From an employer perspective, your primary obligations arise under workplace safety legislation. You are required to take every reasonable precaution to protect workers, including addressing psychological hazards such as harassment or intimidation. If employees feel unsafe or distressed, you are justified in assessing the situation and taking appropriate action, which may include declining to send staff back if the concern cannot be resolved.

Under the Occupational Health and Safety Act (OHSA), employers must maintain a safe work environment, which includes protecting workers from behaviours that could be perceived as threatening or harassing. Employees may also have the right to refuse work if they reasonably believe the situation is unsafe, triggering a formal work refusal process. Employers should document all concerns, actions taken, and communications related to the situation.

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