

# Exploring Options to Address Excessive Employee Absences



Employee absences are on the rise in Canada. Partially this is a result of an aging workplace as statistically older employees use more sick time compared to younger workers; Workers age 55-65 took on average 13.1 days compared to 5.9 days for workers age 20-29 in 2011). We have also seen the stats , including from the Conference Board of Canada, that workplace absences cost employers billions of dollars in replacements and lost productivity. The issue of sick time is an important one but it is also a complicated one.

Sometimes employees need to be accommodated for family obligations, illness, disability or other acceptable types of leave. In the Canadian workplace people are valued and often employers make an effort to work with employees around issues of accommodation. While this was not always the case not only is it frequently the right thing to do it is also the legal thing to do.

That all said, there are also instances when an organization finds itself putting up with an employee who takes advantage of the organizations good will by repeatedly missing work and using illness or even nothing as an excuse. Although it is difficult in Canada to terminate an employee there are things an organization can do to address concerns about excessive absenteeism.

## **Laying The Ground Work To Address Excessive Sick Time**

1 & 2 ) ***Policies and Awareness of Policies:*** If you want to address the issue of an employee taking excessive sick time you cannot wait until it happens to be prepared. Your organization needs to put in place policies that clearly state the expectations for work and requirements for missing work.

Your policies must clearly lay out what is expected including:

- How an employee reports (the process) and substantiates a sick leave request (remember you are not allowed to ask for medical or health details just the fact that an absence is a result of a health or medical reason).
- How many sick time hours are allowed (paid or unpaid) and how many can occur in combination (i.e. 3 days in a row) before medical document is required to substantiate an illness or injury.
- Consequences of misuse of sick time including progressive discipline steps (always ensure your policies are in compliance with Federal and Provincial

employment standards and human rights legislation).

And Two, you need to ensure that your employees are aware of these policies.

3) **Fairness and Accommodation:** We mentioned accommodation of the top because frequently excessive absences can be a result of issues such as illness, disability or family responsibilities. It is important that you consider these and other factors when addressing an employee's excessive absences. Tribunals and courts in Canada have found that employers can have an obligation to try and determine if disability or family accommodation are contributing sick time. You cannot just say you did not know you may actually need to overtly try and determine if these factors are contributing factors.

4) **Tracking:** If you want to be able to address excessive sick time you need to ensure you are tracking the sick time of your employees so you can determine if an employee is operating outside the norm for your organization. It is important to apply your actions and potential sanctions consistently to all employees in the organization, so documenting everyone's sick time and steps taken to address unexplained absences are crucial.

5) **Addressing The issue:** Once all the elements are in place and you are confident that you have the evidence you need, accommodation is not required and you have followed your procedures you can apply your actions including discipline.

### **Establishing 'Culpability' and Delivering Progressive Discipline**

If all of the elements are in place to address the issue of excessive use of sick time then you are in a position to try and determine if an employee is culpable for missing sick time. If you can determine that an employee is purposely missing work and calling it 'sick time' and there is no evidence to support illness and/or you detect a pattern such as the employee calls in sick every time he/she heads to their summer cottage for the weekend you may have grounds to begin to address this as a misuse of sick time. Those progressive discipline steps you put in place will come in handy especially if, at the end of the process, you may terminate the employee.

Applying progressive discipline allows you time to establish that you are trying to work with the employee and it gives the employee the opportunity to change a pattern of misuse of sick time. If you follow all your steps and if you ensure that there is no need for accommodation due to a protected right then you may be able to terminate an employee if that is what you deem appropriate.

### **A = B therefore C – Perceptions of Fairness**

An employee who calls in sick every Monday may be out partying and want a break or it may be that she worked all weekend to get the job done. Life is rarely as cut and dry as A = B therefore C.

Sometimes it is an option to discipline an employee and other times it is an option to accommodate even when there are no protected grounds for the accommodation. If you consider employee management and performance as factors in the equation you may determine that creative accommodation is an option even when not a requirement. Sometimes employees work better on their own schedule and if you consider this you may find it a viable option that works for everyone.

As part of the progressive discipline steps in your organization if you focus on performance and outcome and not on hours at work you may be in a position to offer an alternative option to discipline or termination. Try to work with the employee to see if work schedules can be adjusted. Perhaps your employee struggles with Monday

morning because he heads out to help care for his parents who are several hours drive away and he is tired after a busy weekend and a long drive. On one hand you may say this is not your problem but on the other hand people are complicated and so are their lives. Working with employees to make adjustments is often less difficult than one thinks.

You can take many steps to legally terminate an employee for excessive absences and poor work performance. The steps take time, can be complicated and can create stress on many people in the workplace including the employee, co-workers, supervisors and HR. Sometimes they are necessary but sometimes they are not.