"I Forgot My Doctor's Note" – Timeliness Of Medical Excuses For Workplace Absences



When does an employee have to provide a Doctor's note to excuse a workplace absence? After the absence, during or before? A recent labour arbitration case provides some guidance:

According to a provision in the collective agreement in this case, an employee could be fired if he or she was absent for more than three consecutive working days without a reasonable excuse. The employee in this case was absent for four consecutive days in June 2015 and was terminated soon thereafter for these absences. Although the arbitrator found that the employee had a legitimate medical excuse for his absences, the employee did not inform his employer of this medical excuse until after those four consecutive days away from work.

The question for the arbitrator was this: did this provision in the collective agreement require the employee to contact the employer about his absence before being away from work for four consecutive work days? If the answer was yes then the employer would be justified in terminating the employee. If the answer was no, then the employer would have to reinstate the employee.

According to the Arbitrator, the answer was a resounding "no." Since there was no possible interpretation of the provision in the collective agreement permitting the termination of employees after four consecutive unexplained work absences that would specifically require employees to notify the employer in advance of those absences, the employee could not be terminated.

While it may seem like a common sense reading of a contract provision or policy about workplace absences would require employees to give their employer notice in advance, or at the time of an absence, without a clear statement regarding the timeliness of the notification process, employers will be left without knowing where their employees are and, importantly, without the opportunity to dismiss them for being absent.

Article by Gabriel Granatstein