

Is It Legal to Record Termination Meetings? – Ask The Expert



QUESTION

Are we legally allowed to record the meetings we hold when notifying employees that they've been terminated?

ANSWER

Yes, you can; but whether you should is another issue.

EXPLANATION

It's understandable why you might want to record termination meetings. After all, the things that are said and not said during such meetings can be of critical importance if the employee contests the termination or how it was carried out.

However, you also need to recognize that PIPEDA and other personal privacy laws apply to such communications. Consequently, you can't record termination meetings without the employee's knowing and informed consent.

If you do record termination meetings, you need to be extremely careful about each and everything you say during the meeting. Recognize that every statement you make may have legal and unexpected legal implications. Example:

"We're doing you a favor by terminating you since you're obviously unhappy here and are now free to work in a more suitable situation."

While you might think you're only being supportive and sympathetic, such a remark may suggest that you were aware that the employee was experiencing problems at work, which could be damning in a case alleging harassment or constructive dismissal. Depending on the circumstances, "suitable situation" could also be interpreted as a subtle and discriminatory remark to the extent the "suitability" is based on the employee's disability, race, religion, national origin, age or other protected class under human rights laws.

For these reasons, it may be more advisable to have a third person sit in on the meeting and take notes rather than recording the meeting.