

# Trap to Avoid: Not Making Employees Aware of Potential Discipline for Social Media Offences



The social media policy has become a staple for most workplaces. But simply having a social media policy isn't enough. You also need to ensure your employees know about it and are aware that they can be held accountable for their tweets, blogs, etc.

## The Toronto Fire Services Fiasco

Wrap your mind around this. Your organization is under fire for its lack of gender diversity. So you embark on an ambitious plan to recruit more women. A week later, you're horrified to discover a story in a national media outlet citing sexist twitter posts from your male employees:

- *"Reject a woman and she'll never let it go. One of the many defects of their kind. Also weak arms."*
- *"The way to a woman's heart is through anal."*

The tweets are disgusting enough. But the fact that the two "gentlemen" who posted them identify themselves as your employees magnifies the shock. Everybody knows the offenders work for you and naturally assume they represent your organization.

But it gets worse. You fire the employee who made the tweets, only one of the terminations stands up. One difference is that the reinstated employee's remarks were less offensive. But the real problem was an HR breakdown. Your organization didn't do a good enough job of making your employees aware of its social media policy, the arbitrator rules.

## Having the Right Social Media Policy Is Crucial

This nightmare scenario which is based on an actual incident involving a pair of off-duty Toronto firefighters, illustrates a crucial point: Transgressions on twitter and the like are grounds for termination—but only if you have the right social media policy.

## **Another Twitter Termination Bites the Dust**

A BC organization learned this lesson the hard way when it fired its communications director for making a series of remarks about the organization, its officials and clients on her personal blog. Examples: "I wonder if other [organizations] have as much propaganda as ours" and "will prob get in trouble for this but i don't care; team tactics failed."

The organization acknowledged that none of the individual tweets were egregious but contended that, cumulatively, they had a negative enough effect to constitute just cause. Ruling: The termination was wrongful and the organization had to pay 5 months' notice because it never complained about the director's tweets or warned her that they were putting her job in jeopardy [*Kim v. International Triathlon Union*, 2014 BCSC 2151 (CanLII)].

## **Social Media Policies Must Be Actively Communicated**

The bottom line: As with most employment offences, discipline for social media violations depends not just on what employees say, but on how you carry out the disciplinary process. First and foremost, you need to make employees aware that comments on social media are grounds for discipline, even if they're made off-duty and away from work. Simply adopting a social media policy stating as much may not be enough. You need to publicize the policy and ensure that employees understand are aware of not just the policy's existence but the potential consequences for its violation.