

Management of Excessive Absenteeism Files: Some Guidance

By Marie-Claude Perreault and Danielle Lachance

All companies must manage their excessive absenteeism files. Repeated absences, even when they only involve a small percentage of employees, have a substantial negative impact on all employees. An employer should therefore intervene immediately to prevent its employees from thinking that they can be absent whenever they wish. Also, many employees use the example of other employees to justify their own absences, causing the problem to grow out of proportion.

At What Point Do We Say Enough Is Enough?

When an employee is no longer able to satisfy the conditions of his or her employment contract, particularly with respect to performance of his or her normal and regular duties, and the level of his or her absenteeism clearly exceeds that of other employees of the company, an employer must learn to say enough.

To correctly determine the rate of employee absenteeism, absences must be recorded. It is not a matter of trapping employees, but rather of acquiring tangible evidence that an employee is not performing sufficient and acceptable work.

For this to have meaning, the absenteeism rate should be evaluated over a sufficiently long period of time.

How to Manage an Excessive Absenteeism File

When an employee is absent due to illness, we assume that his or her attendance will improve as he or she recovers. If the absences are repeated and result from one or more causes, the file should be analyzed to evaluate the reasons for the absences, their length and the period during which they occurred. Such analysis enables one to anticipate future attendance levels of an employee. In order to be able to evaluate the ability of an employee to perform regular duties in the near future, it is sometimes necessary to rely on the opinion of an expert medical practitioner chosen on the basis of the nature of the absences and the relevant medical conditions.

The employer must provide the expert with a complete file, including a detailed description of the absences, the relevant case history, a description of the attitudes and behaviour of the employee as well as the employee's disciplinary file, where applicable. The opinion of the expert must be objective and in accordance with good practice.

If analysis of the file shows that the employee was not able to discharge his or her duties in the past and that it can reasonably be inferred that he or she will be unable to perform his or her duties on a regular basis in the foreseeable future, the employer may terminate the employee. The medical opinion constitutes a key element of such analysis.

Before deciding to terminate the employment relationship, it is important to first record all the steps taken to accommodate the employee and to improve his or her attendance.

How Dealing With Absences Stemming From Alcoholism, Drug Addiction or Gambling Problems

According to labour law jurisprudence, alcoholism, drug addiction and gambling addiction are considered to be illnesses and are treated as such in the course of managing an absenteeism file. As a result, when an absenteeism problem is rooted in one or more such addictions, the employer must provide the employee with various resources promoting rehabilitation within a reasonable time. Where such steps end in failure, the employer may then impose disciplinary measures, including dismissal.

The parties therefore have reciprocal duties: the employer undertakes to help and support the employee suffering from addiction while the employee agrees to take the necessary steps conducive to acceptable work performance. It must be emphasized that the employer's duty to the employee has its limits. Indeed, refusal to participate in a therapy suggested by the employer or failure of such therapy may constitute grounds for dismissal.





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At What Point Is The Employee Given A "Last Chance"?

An employee may be reinstated in or keep his or her job provided he or she meets certain reasonable conditions conducive to better work performance.

For such an agreement to succeed, a detailed analysis of the file of absences must be conducted to specifically

determine what it involves, particularly with respect to the likelihood of a relapse and the employee's level of cooperation regarding his or her reinstatement. Compliance with the provisions of the agreement by the employee requires careful monitoring.

Putting An End To Excessive Absenteeism

It is essential for a business to properly manage absenteeism files in order to impart employees with certain values related to work attendance. It is also important to carefully review each file in order to adopt the most appropriate management strategy.

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