



COVID-19 – Employer Update

March 23, 2020

A new week starts with the following updates:

*We've received several questions about **Temporary Layoffs and Terminations** that need clarification. Please note that the advice below is not legal advice and employers or employees considering these issues personally should consult with a qualified Lawyer. This information is for clarifying guidance only:*

Regrettably several articles have appeared in the media recently advising employees to seek damages for constructive dismissal if they are temporarily laid-off from their jobs due to the COVID-19 crisis.

While this 'right' exists for some employees, we encourage employees and employers alike to continue working together and to at least reconsider asserting entitlements at this difficult time. In a crisis we need to work together in order to successfully overcome these challenges, and think about the long-term.

Review your Contracts

If your employment contracts state that it is permissible to temporarily lay-off staff in accordance with the Employment Standards Act then you can do so. Have a look through your employment agreements. Depending on who wrote them, it may be included (for our HRLive clients, this is already covered in your employment agreements, though please feel free to contact the office to discuss any concerns).

What if you don't have Employment Agreements, or your agreements do not speak to this issue?

Talk to your staff. You need to work together on this issue. If you speak to your staff and explain the difficulties posed by the situation and ask them if they will agree to a temporary layoff as one of the measures to address the disruption to operations, then you can do so.

This is not to diminish the rights of your employees. If an employee refuses to cooperate with a temporary layoff as a reasonable means of dealing with the situation and claims constructive dismissal, they will have to walk away from their job. With over 500,000 people laid off this past week, this could be a risky strategy. There is little doubt that this issue will be re-tested by the legal community and the courts in the months ahead (and we will leave it to them to do so). It may be interesting to see how the courts could deal with an extreme, once-in-a-lifetime (hopefully) crisis. New precedents could be made.

A reminder from our Friday bulletin about completing your ROE's for laid-off workers:

Several Payroll experts have reached out to advise *against* including anything in the Comments Box as it will delay auto-processing and delay claims processing times for your staff.

If you have any other inquiries please do not hesitate to contact us at info@savinohrp.ca or by phone at 705-400-7145.

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