

# Absenteeism – Nuts and Bolts

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*“Absence make the heart grow fonder”*

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The above ancient proverb may be applicable to personal relationships, but is likely not uttered very often on a busy Monday when an employee calls in sick. Few things upset the scheduling of work more than an unexpected employee absence, especially when the suspicion is that the employee is not sick. In the previous article the intent was to broadly frame the principles around employee absenteeism. This article will centre on details of how to handle absenteeism from a practical perspective with a primary focus on “sick leave.”

There are basically three types of absence categories; the culpable, the innocent, and the hybrid. For any absence from work, whether sick leave or the shiny new Personal Emergency Leave (PEL) in Ontario, there are a few basic pointers. Fundamentally, an employee requesting approved leave for medical reasons must account for such absence: That obligation is ongoing with the degree of accountability determined on a case-by-case basis. In all cases the approach from the Employer is to attain such medical information in the least intrusive means capable. The range of information could be as simple as accepting the statement from the employee or a simple medical certificate, up to a functional assessment form and in some cases an independent medical examination. An employee claiming approved absence for sickness has the onus to prove that s/he is sick *and cannot work*.

The Employer is within its rights to create rules around such absences, just like any other absence. Notwithstanding the restrictions on rules (including must be reasonable, clear, etc.), Employers are permitted to create structure around issues such as; the notice the employee provides, whom to report such absence, and verification that the reason asserted is justifiable. The Employer may probe into the matter in order to verify the authenticity of the request. If the employer has reasonable grounds to question the sufficiency of the medical evidence then it can request additional medical evidence. Employers can have attendance management programmes (AMPs) to monitor absenteeism. Ultimately an Employer can terminate employees who abuse absenteeism (culpable and disciplinary) and those employees who cannot maintain reasonable regularity in attendance when an employee cannot attend work regularly and there is no prospect that the employee will be able to in the foreseeable future after exhausting accommodation to the point of undue hardship (innocent and non-disciplinary).

The balance against the rules and probing are privacy and time management pressures. Particularly, for culpable absenteeism, Employers must dedicate the time to follow-up on the verification of the matter despite the fact that in many cases it's merely one-days pay. The establishment of a workplace culture that asserts to be proactive with regards to absenteeism generally results in lesser culpable absenteeism. As for privacy, employees are entitled to a certain amount of privacy justifying the limits to the medical information an employer can require, and conditions on who gets to see it. For a single day's absence with no pattern of abuse, the lesser information the Employer would have the right to access. Rarely would diagnosis be required, thus for workplace accommodations and patterns of absence the usually acceptable medical evidence includes; the general nature of the illness, basis for

the medical conclusion, estimated time off, prognosis (e.g. temporary vs. permanent), workplace restrictions (and abilities), and treatment plan (verification that following and specific workplace impacts, if any). If there are facts to render the medical evidence questionable then the Employer is within its right to investigate, seek clarity, and in some cases terminate the employee (e.g., an employee claiming physical sickness at one workplace but doing the exact same work at another). As for which management sees the medical information a Human Resources personnel would be the main person. The direct supervisor need not see the actual medical information but would be involved for workplace restrictions and would have knowledge of days off and legitimate operational facts (e.g., lifting, hours, rest, etc.).

Culpable absences are disciplinary matters, generally handled through progressive discipline. Therefore, an employee claiming to be sick to avoid coming to work, if not verified, is on an unauthorized absence and subject to discipline. Practically, it's very easy for an employee to receive a medical certificate and, in a unionized setting, not cost-effective for an employer to litigate a dispute re a one-day absence. The pro-active approach involves rules regarding reporting, probing regarding the nature of the illness, and not approving such days off until the proof is provided. In short, for suspicious but "one-off" situations make the employee understand that getting approved sick leave is not automatic.

For suspicious patterns of illness, the prerequisite is tracking absenteeism. While the sophisticated so-called abusers of sick leave will be selective in the days they call in sick, there are often patterns of illness that can be identified. Usually those patterns centre on weekends and holidays, but can also include a day a month, certain work assignments, certain coworkers, community events, and others. A suspicious pattern of illness is grounds for discipline. Just like being 15-minutes later for work, employees, through a progressive pattern of discipline (the discipline gets more severe with each occurrence), can be dismissed from employment. Often a suspicious pattern of illness spews out from

regular monitoring of absenteeism, usually from an AMP.

The essence of the AMP is a set of rules to manage attendance. Such AMPs must distinguish between culpable and non-culpable (although an employee could straddle both – the "hybrids"). The AMP can have thresholds or "triggers" for meetings and other strategies to address attendance issues. Those thresholds should be reasonable (cannot count legitimate absences such as union, bereavement, ESA leaves) but should also be breathable and flexible to ensure that it is not unfair in certain circumstances. An AMP that says 10% absence over two (2) years means termination would likely be considered flawed if litigated. Used effectively, meaning supervisors and employees are trained and the AMP is entrenched in the workplace culture, an AMP is a valuable tool for workplace accommodation and also for curbing culpable absences.

Absences from work may not be accepted with fondness by Employers or for some coworkers who are left doing the work instead. But a modern, practical, compassionate, and reasonable approach to absenteeism that is based on process instead of emotion will enhance the Employer – Employee relationship.