

Employee use of Social Media: Proper Netiquette

A look at just cause dismissal for social networking abuse.



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According to Facebook's "press room" there are more than 500 million active Facebook users to date, nearly half of which log on to the site daily. A staggering 700 billion minutes are spent on the site each month, with the average user having over 130 friends. I would demonstrate the '6 degrees of separation' here, but I'm not entirely sure where my calculator is – and you get my point. Chances are the majority of your employees have already been online today.

Facebook, as well as a host of other social networking sites have proven extremely successful in aiding HR recruitment endeavours and amplifying "word of mouth" initiatives. Unfortunately, they also provide the perfect medium for disgruntled or simply dim witted employees to communicate their frustration and counterproductive attitudes to the masses.

One would think that with all the public scrutiny surrounding Facebook privacy concerns, more specifically the sharing of personal information, employees would be somewhat cautious as to what they post publicly – but this is unfortunately not the case. These seemingly 'innocent' actions are not only indicative of poor judgement, but are terminable offences.

Fact is, many employees don't seem to care about information sharing issues or perhaps don't fully understand them. One thing is for sure, they are certainly paying for their indifference. While it's not an entirely new phenomena, employees are still surprised to find out they can be dismissed for just cause, meaning they aren't entitled to any compensation or notice in lieu, based on what they post online. The writing on the virtual wall cannot be erased, so to speak.

In a recently reported arbitration case, the British Columbia Labour Relations Board (LRB) upheld the termination of an employee who made several derogatory comments on his online Facebook profile referring to his manager as "half a tard" and a "prick," as well as stating that his employer had "ripped off" customers.

Initially, the above noted employee had allowed the manager to view his postings on his "wall" as a "friend." Then the employee, definitely in no danger of being classified as brilliant, removed his manager as a "friend" but continued to post derogatory statements, apparently not fully understanding that other users could monitor or view the posts on the managers behalf.

With the newly amended Ontario Health and Safety Act (Bill C-168) these derogatory statements could constitute a bullying or harassment complaint - not taken lightly in Ontario courts. As one of the most "behind the ball" provinces, in regard to workplace violence and harassment legislation, Bill C-168 aims to bridge the gap in added protection for workers and employers alike. Toxic cultures, or work environments of an extremely hostile nature, are not only unpleasant for employees, but have been linked to increased WSIB claims, ST and LT disability costs, lowered productivity, as well as increased absenteeism. Maintaining an environment of mutual respect clearly is the "win-win" scenario for all stakeholders.

It is now an employer's obligation to protect its employees while on the job, as well as off duty – when the conflict pertains to, or originated from work. Ergo, a Saturday night Facebook posting is your Monday morning problem. So – what can you do? Well...

Basically there are a few major themes when considering your employees "Facebook venting" in Ontario;

- 1) **An OHSA violation** – harassment or threat of violence toward another employee (or supervisor in the aforementioned BC LRB case). **Or a Human Rights violation** – certain derogatory statements could be considered a violation of an employee's Human Rights and could be pursued as such.
- 2) **An intent to damage the reputation or conflict with operations of the organization** – statements like "I hate my job" can be damaging to recruitment efforts and the organizations overall branding image, where as posting statements (or pictures) of confidential information (for example the name of a client) is in violation of operational policy.
- 3) **Offensive Material** - some employees still don't understand you can be fired (with just cause) for accessing, receiving and distributing offensive material using an employer's computer or network.

At the end of the day, there is no guarantee of privacy which therefore exposes every single statement online to potential "world-wide access". Insulting a co-worker, or employer, or client is never a bright idea - even if it's done on your own time. It's important to communicate these seemingly obvious issues with your staff on a regular basis. Doing so might just result in your staff practicing "responsible behaviour" not only on the job, but online.