COVID-19 and Telework: A Common HR Solution but not Without Risk!

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Author

Richard Gaudreault

Partner, Lawyer

Due to the ongoing pandemic and the resulting suspension of many company activities, certain employers are maintaining their operations by means of telework. Employers have had to swiftly redeploy their human resources to an extent that would have been unimaginable just a few weeks ago.

The redeployment of resources now working from home was done in a time of crisis, without the benefit of advanced planning, training, and strategic evaluation that usually accompanies changes of this magnitude.

With no prediction yet available on how long the current crisis will last, employers must take steps now to ensure that the measures implemented to promote the continuity of their operations do not result in negative consequences, disputes or claims from their employees, clients or partners.

In Quebec, thousands of employees are currently using new technological tools in a new environment (their homes), often without supervision. The boundary between private life and work has never been more blurred.

The magnitude of the current context can artificially obscure the importance of employers adapting their operational methods and associated human resource policies to avoid the risks associated with working remotely.

Employers must remember that legal action could be taken after the crisis to address any problematic situations in play now. It is important to act now in order to avoid exposure to significant liability in a post-Covid environment.

To that end, we have identified the following four areas of concern. These have been highlighted so that employers can take any required measures to ensure that the telework performed is not only appropriate and safe, but also of sufficient quality to satisfy client and company needs:

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Concerns Related to Health and Safety while at Work

The employer’s obligations in terms of health and safety and its responsibility to take preventive measures continue during this period of telework;
The idea that the workplace can include the employee’s home must be taken into account, as well as associated workstation ergonomics

Concerns Related to Psychological and Sexual Harassment

The need to preserve civility while using new methods of communication;
The feeling of familiarity engendered by these new methods of communication can be fertile ground for misconduct or a failure to engage in proper teamwork;
The employer’s legal responsibility to prevent and address psychological and sexual harassment situations;
Events that occur outside the usual workplace and are related to work;
The application and adaptation of administrative policies and codes of conduct;
Reviewing complaint and inquiry procedures so that they can take place outside of the usual workplace.

Concerns related to the *Act Respecting Labour Standards*[1]

Respecting and modifying work schedules;
Managing overtime;
Costs associated with working from home;

Concerns related to Privacy and Confidentiality

The contractual performance of work in the employee's home;
Transporting and storing work documents;
Setting up a workspace to ensure that documents are kept confidential and ethical obligations are respected ;

Our Labour and Employment team will be happy to help you implement best practices for telework.

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1. *Act respecting labour standards, chapter N-1.1.*

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