

e2r Alert!

THE OFFICE ROMANCE...WHEN LOVE IS IN THE AIR

While February is often known for being the shortest month in the year, it's also known as the month of romance. Specifically, February 14th, otherwise known as Valentine's Day, is an annual commemorative date celebrating love, affection and appreciation between intimate companions.

In a 2009 Careerbuilder.com survey of 8000 workers, approximately 40 percent of workers revealed that they had dated a co-worker at some point in their careers, while 31 percent indicated that they went on to marry the person they dated at work. Perhaps a more surprising statistic was that 34 percent reported that they dated a person in a higher position.

While love may be considered blind, employers should be mindful of the risks associated with an office romance. While relationships amongst co-workers typically pose less of a risk, relationships between supervisors and subordinates can often be problematic. It's quite plausible, as in the cases of *Dooley v. C.N. Weber* (1994) and *Cavalier v. Corvex Manufacturing Ltd.* (2009), that an office romance can act as a trigger for a termination for just cause, and ultimately, an action for wrongful dismissal.

In *Dooley*, the employer terminated a senior manager when it discovered that he was having a consensual sexual relationship with two female subordinates, despite being warned that he could be terminated if he continued such relations. Having determined that the sexual affairs constituted private matters that occurred outside of company hours and away from company property, the court found that the sexual affairs had no negative impact on his ability to perform his duties, nor did they negatively impact company business. Unfortunately for the employer, the court found that the senior manager had been wrongfully dismissed and awarded damages on account of reasonable notice in the amount of 12 months.

In contrast, in *Cavalier*, a manager also had an affair with a subordinate, albeit under different circumstances. Here, the manager had been reprimanded and subsequently demoted for previously engaging in this kind of behavior, only to do it again with another married subordinate. Upon discovering the second sexual relationship, the employer terminated the individual for just cause claiming his conduct was inappropriate. Having upheld the employer's termination for just cause, the court noted that in these circumstances the facts indicated that the manager had engaged in sexual activities at the office and during company time. The facts also supported the company's position that the affair was impacting his ability to perform his job.

Despite the different outcomes in *Dooley* and *Cavalier*, one thing is clear: employers should be mindful of the challenges that an office romance can present. While every situation requires a different solution, employers should consider developing a formal "Relationships Policy" (as part of an overall comprehensive Employee Handbook), as well as offering training for managers on how to handle these types of matters. Furthermore, as such relationships can often impact morale and culture at a workplace,

where necessary, employers should require that workers disclose any relationships, particularly ones that involve employees who would be considered to be fiduciary, and that they conduct themselves in a discreet and professional manner while at work.

Should you require assistance with developing policies, or providing training to your employees in regards to the above, we would encourage you to contact one of our e2r Solutions® providers.

If you do not wish to receive further e2r Alerts!, please reply to this email with the word Unsubscribe in the subject line of your reply and your email address will be deleted from our distribution list.

“Real Human Resources Advice in Real-Time”

70 The Esplanade, Suite 401 | Toronto, ON M5E 1R2 | 1.866.327.7657 | tel 416.867.3093 |
fax 416.867.1434

[Website](#) | [Facebook](#) | [LinkedIn](#)

e2r Solutions® is a service of Woolgar VanWiechen Ketcheson Ducoffe LLP, a certified MDP.

IMPORTANT/CONFIDENTIAL: This email message and any attached files are intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any other distribution, copying or disclosure is strictly prohibited. If you have received this message in error, please notify us immediately by telephone at 416.867.3093 and destroy original message.