

e2r Alert!

THE RISE OF TELECOMMUTING

Telecommuting, the practice of permitting employees to work from home, can offer significant business advantages, among them increased morale, lower overhead costs and from a recruiting perspective, a competitive advantage vis-a-vis other employers. In 2008, Statistics Canada reported that nearly 1.8 million Canadian employees worked at home. Of the nearly 1.8 million Canadian employees, approximately 55% of these individuals were employed in a professional or managerial capacity.

While telecommuting has emerged as a viable work alternative, employers should be prepared to manage the legal and human resource issues that are likely to arise under such arrangements. As always, the best method of preparation is the creation of a clear-cut policy, and in doing so, an employer should be cognizant of the following issues.

Approval and Criteria

As telecommuting is typically viewed as a privilege, an employer will need to emphasize that it will only be available to certain employees upon approval. Furthermore, in the name of transparency and fairness, an employer should go further and set out the relevant criteria that will be considered in order to determine approval. As an example, such criteria may include, the suitability of the position (for telecommuting), as well as overall cost-effectiveness.

Constructive Dismissal

While working from home may appear to be ideal to many employees, it is not for everyone. As such, it is important to remember that an employer cannot force an employee to work from home. At least one Canadian jurisdiction has determined that forcing an employee to accept an alternative work arrangement may constitute a constructive dismissal. Conversely, where the ability to telecommute is an implied term of employment, removing this privilege may also lead to a constructive dismissal claim.

In order to reduce exposure, an employer should emphasize that participation is voluntary, and that no one will be forced to participate against their will. Furthermore, it should be clear that the ability to telecommute is a privilege that may be removed at the sole discretion of the employer.

Legislative Obligations

Telecommuters are subject to the same legislative obligations as on-site employees. As such, an employer will need to address, among other legislative concerns, employment standards and occupational health and safety issues. From an employment standards perspective, an employer will need to address such matters as hours of work and overtime. From an occupational health and safety perspective, where necessary, an employer may need to address such issues as working alone, foreseeable workplace hazards, and workplace violence.

Productivity, Accountability & Monitoring

One obvious downside of a telecommuting arrangement is that an employer loses its ability to physically monitor an employee. While a slight loss in productivity is arguably a small cost of permitting employees to telecommute, an effective policy can help keep such losses to a minimum. To this end, an employer will need to incorporate the use of “measurables” and “key deliverables”. Lastly, an employer will need to emphasize that should the employee fail to meet the defined productivity standards, the employer reserves the right to immediately terminate the arrangement.

Equipment and Technology

Finally, an employer will need to address the provision of work-related equipment and technology. In particular, an employer will need to address the repair, maintenance, and proper use of equipment. More importantly, an employer would be wise to pre-emptively address issues surrounding the return of company equipment in the event the employment relationship ends.

The Bottom Line

In order to determine whether telecommuting is right for your organization, it would be wise to consider your organization’s needs well in advance. A clear-cut policy will help ensure that the arrangement is mutually beneficial to both the employee and the employer. We encourage you to contact us so that we may assist you.

Please contact e2r Solutions® should you have any questions regarding the foregoing.

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
toll free 1.866.327.7657
tel 416.867.3093
fax 416.867.1434
www.e2rsolutions.com

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 for the use of the individual or entity to which it is addressed, and may contain confidential 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 the original message.