
e2r Alert!

Responding to Medical Leave and Accommodation Requests

At e2r™, we regularly find ourselves speaking with clients about what to do when their employee submits a note from their physician seeking a medical leave of absence.

Often, the note provided by the employee will say something akin to “needs to be off work for medical reasons”. Understandably, the lack of detail concerning the nature of, or justification for, the leave of absence can be both confusing and frustrating for employers who need to understand how they are going to fill the labour gap left by the employee and, often more importantly, how long they should expect to do so.

As such, when a client comes to us with one of these medical notes, we typically encourage them to seek further information from their employee and their physician. Doing so not only provides increased clarity for the employer, but also satisfies their obligations under Canadian occupational health and safety and human rights legislation concerning accommodation in the workplace.

How to go about seeking further information typically depends on the context. For example, in Ontario* an employee is entitled to up to 3 days of unpaid leave due to personal illness, injury or medical emergency. As such, if an employee advises they are sick and just needs the next day or two off, the employer cannot seek a medical note justifying the brief legislatively job-protected absence.

However, if an employer receives a letter stating only that the employee “needs to be off work indefinitely for medical reasons”, the employer can still request evidence reasonable in the circumstances from the employee to confirm the nature of the absence, the anticipated date of return, and whether the employee will require any workplace accommodation upon their return.

While the employer cannot seek access to an employee's medical history or specific details about their diagnosis, they are entitled to sufficient information to assess how the employee's medical situation may impact job attendance, performance and safety.

An employee who refuses to provide information following an employer's reasonable request may be subject to discipline for failing to meaningfully participate in the medical management and return to work process.

Conclusion

Employers should never feel like their hands are tied when an employee provides them with medical information that is insufficient. If an employee is seeking a leave of absence, they are required to provide information that permits the employer to understand:

- the nature of the absence;
- whether it applies to either a legislative or workplace policy entitlement;
- the anticipated length of the absence; and
- if the employee will require accommodation upon their return to work.

As such, we always recommend a proactive approach with employees to ensure they understand that medical management and requests for accommodation are a two-way street in which both parties must meaningfully participate in finding a solution that is clear, fair and safe.

If a medical management or accommodation issue arises in your workplace, remember that e2r™ is here to help.

*Note that while the information contained in this Alert applies generally across Canada and its Provinces, it is important to ensure you consult the relevant employment and labour legislation applicable to the jurisdiction of the employee's location of work to determine whether the nature of the absence qualifies under a job-protected leave of absence.