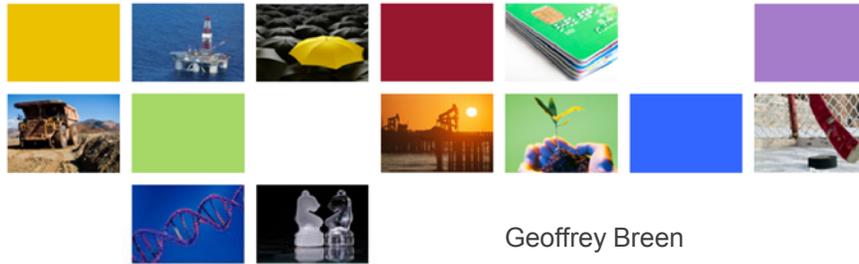


# Accommodation of Absenteeism



Geoffrey Breen  
Where Are My Employees?  
Managing Absenteeism in the  
Workplace  
October 7, 2015

## Relevant Legislation

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- *Employment Standards Act, 2000*
- *Human Rights Code*
- *Accessibility for Ontarians with Disabilities Act, 2005*
- *Workplace Safety & Insurance Act*

## *Employment Standards Act, 2000*

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- Provides a statutory right to job-protected leaves, including:
  - Pregnancy/Parental Leaves
  - Organ Donor Leave
  - Family Caregiver Leave
  - Family Medical Leave
  - Personal Emergency Leave
  - Critically Ill Child Care Leave
  - Crime Related Child Death or Disappearance Leave

## *Accessibility for Ontarians with Disabilities Act, 2005*

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- Proactive legislation: Requires most employers to create policies and consider measures to provide a workplace that “removes barriers” for individuals with disabilities – both for employees and customers
- Largely complementary to obligations under the *Human Rights Code*
- Despite being 10 years old, the full impact of this legislation remains to be seen

## *Human Rights Code*

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- Prohibits discrimination in employment on the basis of disability (including perceived disability), creed, family status, marital status and age, among others
- Requires accommodation up to the point of “undue hardship”

## *Workplace Safety & Insurance Act*

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- Where applicable, requires that employers accommodate employees with workplace injuries up to the point of “undue hardship”

## So What is Undue Hardship in Cases of Absenteeism?

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- Fact specific — both to the circumstances of the employee and the employer
- Rarely would short absences with advance notice (such as religious holidays) give rise to undue hardship — the greater difficulty comes with chronic and extended absenteeism
- A number of well-established general considerations for undue hardship tend to be moot in cases of absenteeism
- However, the Supreme Court of Canada has provided guidance specific to absenteeism...

## *Hydro-Québec v. Syndicat des employé-e-s*, 2008 SCC 43

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- Employee missed 960 days over a period of 5 years due to illnesses
- Supreme Court upheld the employee's dismissal, holding:
  - In a case involving chronic absenteeism, if the employer shows that, despite measures taken to accommodate the employee, the employee will be unable to resume his or her work in the reasonably foreseeable future, the employer will have discharged its burden of proof and established undue hardship.
  - Thus, the test for undue hardship is not total unfitness for work in the foreseeable future. If the characteristics of an illness are such that the proper operation of the business is hampered excessively or if an employee with such an illness remains unable to work for the reasonably foreseeable future even though the employer has tried to accommodate him or her, the employer will have satisfied the test.

## So What is Undue Hardship in Cases of Absenteeism?

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- It is helpful to look to other recent human rights decisions for guidance...

## *Emra v. Impression Bridal Inc.*, 2014 HRTO 1736

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- Employee suffered from anxiety disorder, did not disclose this at start of employment
- Employee began to miss work due to anxiety — when absenteeism was raised in a performance review, he still did not disclose
- After absenteeism worsened, the employee disclosed anxiety issues in a text message to his boss

## *Emra v. Impression Bridal Inc., 2014 HRTO 1736*

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- Following this text message, the employee met with his boss to discuss further — no accommodation was offered or specifically requested and there appeared to be mutual agreement to terminate the employment relationship
- After the termination, the employee advised his boss that he did not agree to the termination and requested accommodation — his boss refused based on prior agreement to terminate

## *Emra v. Impression Bridal Inc., 2014 HRTO 1736*

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- Tribunal's Conclusion:
  - Employer failed to meaningfully appreciate the anxiety disorder — it did not request medical information and had previously operated on the assumption that the employee had ADD
  - Employer failed to investigate accommodation options when the disability was disclosed
  - Employee was entitled to damages for injury to his dignity in the amount of \$25,000 and one (1) year of lost wages

## *Lethbridge Industries Ltd. v. Alberta (Human Rights Commission)*, 2014 ABQB 496

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- Employee with frequent absenteeism due to migraine headaches, depression and a hernia
- Employer had accommodated absences for several years but ultimately made the decision to terminate employment on a without cause basis following an absence taken for surgery

## *Lethbridge Industries Ltd. v. Alberta (Human Rights Commission)*, 2014 ABQB 496

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- Tribunal and Court found this to be discriminatory:
  - History showed that the employer had been able to accommodate absences — while inconvenient, this did not affect profitability and coworkers were able to cover the employee's duties
  - Employer failed to engage in an assessment on how attendance could be improved in future
  - Employer did not consider accommodation options such as telecommuting or adjusted scheduling
  - Employee was entitled to \$10,000 in injury to dignity and 20 months notice

## *Syncrude Canada Ltd. v. Saunders*, 2015 ABQB 237

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- Employee was a labourer in the Alberta oil sands who had passed drug, alcohol and health tests on hire — he was a self described body builder
- Employee began to have various attendance issues — sometimes due to migraine headaches, sometimes for other illnesses and sometimes for personal obligations

## *Syncrude Canada Ltd. v. Saunders*, 2015 ABQB 237

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- Employer was suspicious of medical absences — often followed other scheduled days off and at one point the employee called in sick for headaches over the same days he had been refused vacation
- Employee later broke his hand in a bar fight while intoxicated and missed several months; he then re-broke his hand while again intoxicated — at this point, the employer made the decision to terminate employment without cause

## Syncrude Canada Ltd. v. Saunders, 2015 ABQB 237

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- Court's conclusion — The Tribunal erred in finding discrimination:
  - Employee lacked credibility and tendered vague medical evidence — on balance he was a healthy employee
  - Temporary, unrelated episodes of injury and illness did not rise to level of disability
  - No perceived disability — Employer had worked with the employee on his absences, had him meet with health and safety representatives, and made him aware of attendance expectations
  - Complaint dismissed

## Frustration of Employment

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- Accommodation of indefinite absence?
- Frustration allows the employer to treat the employment agreement as at an end where it is likely that the employee will never be able to return to work or where it would be unreasonable for the employer to wait any longer for the employee to recover
- Must still pay out *Employment Standards Act, 2000* termination and severance entitlements where employment is frustrated due to disability

## Take-Aways

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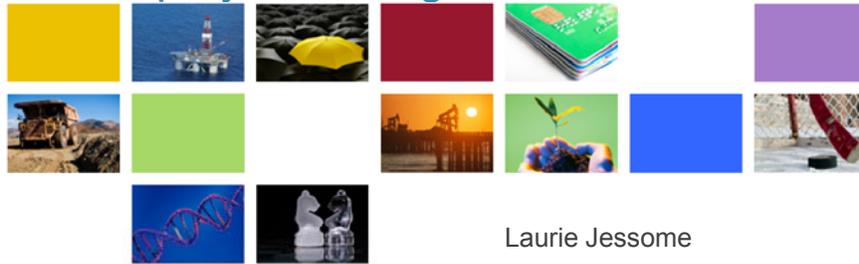
- Be proactive — inquire of employees demonstrating a pattern of absenteeism and meaningfully explore potential accommodations that fall outside of the status quo
  - Ergonomic support
  - Telecommuting
  - On call temporary coverage options
- Inconvenience does not amount to undue hardship — an employer must meaningfully consider over a period of time whether the absenteeism can be tolerated without undue interference with the business

## Take-Aways

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- Accommodation can be forever — if the accommodation is workable, the duty will be ongoing
- Even where an absence may not be protected under the *Human Rights Code*, it may be protected under the *Employment Standards Act, 2000*

# Mental Health, Absenteeism and Accommodation: What are Employers' Obligations?



Laurie Jessome  
Where Are My Employees?  
Managing Absenteeism in the  
Workplace  
October 7, 2015

## Mental Health and the Workplace

- In any given year, 1 in 5 Canadians experiences a mental health issue or illness (Smetanin, P., Stiff, D., Briante, C., Adair, C., Ahmad, S. & Khan, M. (2011) — *The life and economic impact of major mental illnesses in Canada: 2011 to 2041*. RiskAnalytica)
- Only 33% of people experiencing mental health issues seek treatment (Statistics Canada (2003) — Canadian community health survey: Mental health and well-being — *The Daily*, 3 September)
- Mental health issues account for up to 30% of disability leaves (Sairanen, S., Matzanke, D., & Smeall, D. (2011) — The business case: Collaborating to help employees maintain their mental well-being — *Healthcare Papers*, 11, 78–84)

## Disability Defined

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- The Ontario Human Rights Code defines disability as follows:
  - a) Any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,

## Disability Defined

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- The Ontario Human Rights Code defines disability as follows:
  - b) A condition of mental impairment or a developmental disability,
  - c) A learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
  - d) A mental disorder, or
  - e) An injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act, 1997*; (“handicap”)

## Disability Defined

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- On average, 30% to 50% of applications to the Human Rights Tribunal of Ontario allege discrimination on the basis of disability (<http://www.ohrc.on.ca/en/policy-and-guidelines-disability-and-duty-accommodate>)

## The Obligation to Accommodate: Legal Principles

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- Employers must accommodate employees with disabilities to the point of undue hardship
- If an employee can show a *prima facie* case of discrimination as a result of a workplace standard, then the onus shifts to the employer to prove that the standard in question is a *bona fide* occupational requirement

## The Obligation to Accommodate: Legal Principles

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- Employer must show that the standard:
  - Was adopted for a purpose or goal that is rationally connected to the function being performed,
  - Was adopted in good faith, in the belief that it is necessary for the fulfillment of the purpose or goal, and
  - Is reasonably necessary to accomplish its purpose or goal, in the sense that it is impossible to accommodate the claimant without undue hardship

Commonly referred to as the “*Meiorin* Test”

## Accommodation: Employer FAQs

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- *Do I have to accommodate violent or unsafe behaviour if it is related to a disability?*
  - NO — employers have a separate obligation to provide their employees with a safe workplace that is free from harassment
  - The fact that an act of violence or threatened violence stems from a mental disorder does not mean that it must be tolerated
  - However, the presence of a disability must be taken into account when determining remedial action

## Case Study: *Bellehumeur*

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- *Bellehumeur v. Windsor Factory Supply Ltd.* 2015 ONCA 473
  - Bellehumeur terminated for cause after making violent threats against coworkers
  - At the time he made the threats, Bellehumeur had been under an accommodation plan for other issues such as alcoholism, thyroid and cardiac problems — reassigned to a less “stressful” position
  - Employer not aware that Bellehumeur also suffering from mental health issues

## Case Study: *Bellehumeur*

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- Court of Appeal found that since the employer had no knowledge of any mental health issues and since any other employee who had engaged in similar behaviour would also have been terminated for cause, Bellehumeur had not been discriminated against within the meaning of the *Human Rights Code*

## Accommodation: Employer FAQs

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- Do “stress” and “inappropriate behaviour” mean the same thing as “disability” or “mental disorder”? Do I still need to accommodate them to the point of undue hardship?
  - NO — employees cannot point to personal stress and poor coping skills as being the same as a mental disorder
  - They must still provide medical evidence that puts them within the category of individuals who have a “mental disorder”

## Case Study: Elliott

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- *Windsor (City) and WPFPA (Elliott) 2012 CarswellOnt 14245*
  - Arbitration between the City of Windsor and the Firefighters’ Union
  - Elliott, a firefighter, was dismissed after being absent from work for 5 shifts without notifying the employer
  - Elliott had a history of discipline for missed shifts
  - Union grieved the dismissal, arguing that the absence was a result of Elliott’s mental health issues

## Case Study: *Elliott*

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- Elliott provided a doctor's note
- BUT the note said the doctor had not treated Elliott during the five day absence at issue
- In fact, Elliott had not received any treatment for mental health issues in the year preceding the five day absence
- Later revealed that Elliott had been in jail for a period of time that overlapped with his five day absence

## Case Study: *Elliott*

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- Employer had never been told that Elliott had a disability and he never requested any accommodation
- Union relied on previous leave of absence to deal with personal issues and "stress" as evidence the employer knew of Elliott's health issues
- Also pointed to employer's knowledge of his marital issues

## Case Study: *Elliott*

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- Arbitrator found that Elliott managed stress and anger poorly BUT not a mental disorder
  - “...all persons must organize their time and must make choices as to their priorities and must deal with their responsibilities. Some people are much better at this than are other people. The grievor was poor at this. But the problems the grievor had in this area do not demonstrate that the grievor had a mental disorder.”  
(para 191)

## Case Study: *Elliott*

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- Elliott did not demonstrate that he had a “mental disorder” within the meaning of the Code
- Employer had no knowledge of any alleged disability and did not treat him as if he had a disability, therefore no discriminatory assumptions
- Arbitrator found no discrimination
- Dismissal for cause was justified

## Accommodation: Employer FAQs

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- *What if I find out about the disability after or at the time of termination? Am I obligated to go back and revisit the decision to terminate?*
  - MAYBE!
  - If the employee can show that there were medical reasons for the issues leading to termination and that the new diagnosis or treatment means that they can successfully perform in that role, the employer may be obligated to re-evaluate the decision to end the relationship

## Case Study: *City of Ottawa v. CUPE*

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- *Ottawa (City) v. C.U.P.E., Local 503* 2012 CarswellOnt 8677
  - Grievor a parking control officer; 19 years of employment
  - Last 10 years of employment, missed an average of 53 days per year — in 18 months leading to termination, absent 134 days
  - Grievor told the employer his absences were due to his Irritable Bowel Syndrome — placed on accommodation plan
  - Failed to provide medical documentation supporting his continued accommodation and absences exceeded level permitted by the accommodation plan

## Case Study: *City of Ottawa v. CUPE*

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- Union took the position that the grievor had been misdiagnosed during his employment
  - Did not have IBS
  - Suffered from chronic anxiety and major depression
  - Argued that the employer now had an obligation to reinstate the grievor and accommodate his absenteeism
- Also alleged that the employer ought to have known of the grievor's mental health issues because he was frequently observed crying at work

## Case Study: *City of Ottawa v. CUPE*

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- Arbitrator found that the employer did not know of the disability — and neither did the grievor
- He was “in denial” about his condition
- However, in the grievor's termination meeting he noted that he was seeing a specialist — did not say what type of specialist
- Employer should have postponed termination and asked more questions — employee reinstated

## Accommodation: Employer FAQs

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- *Am I entitled to medical information supporting absences and notice of missed shifts? What if the employee persistently refuses to provide information?*
  - Employees are obligated to cooperate in the accommodation process unless they are medically unable to do so
  - Disciplinary action may be warranted where an employee persistently fails to comply with reasonable requests for information

## Case Study: Villar

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- *Toronto (City) and C.U.P.E., Local 79 (Villar), 2014 CarswellOnt 448*
  - Villar alleged he had been inappropriately disciplined and discharged for absenteeism which he said was a result of his disability
    - 16 year employee
    - Worked part time for most of his employment with the City
    - Accepted full time role in January of 2010
    - Discharged in June 2011
  - Between March 2010 and June 2011, he worked only 13 days — many of those absences were unannounced, unexplained and/or unsubstantiated

## Case Study: Villar

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- Arbitrator found that depression was not the cause of Villar's failure to meet his employment obligations
- Villar provided no medical evidence supporting his Union's argument that his depression rendered him incapable of responding to the City's requests for notice and information
- Discharge upheld

## Accommodation: Employer FAQs

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- *Do I have to keep the employee's pay at the same rate if their restrictions mean that they need to perform another role?*
  - NO — you do not have to pay employees for time they do not work or tasks they do not perform
  - Ontario Human Rights Commission policy says you must consider every possible accommodation in their existing role and at their existing rate of pay but do not have to guarantee their compensation if they must be moved to a different role as a result of their disability

## Case Study: *Wilson*

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- *University Health Network and Ontario Nurses Association (Wilson), 2014 CarswellOnt 8329*
  - Grievor a nurse at Toronto Rehab Centre
  - Mental health issues — took a leave of absence and then returned to work pursuant to an agreed-upon protocol
  - Had several subsequent leaves of absence — then involved in a “medication error,” which resulted in the hospital and Union sending Wilson for an IME
  - IME concluded she was no longer fit to work as an RN

## Case Study: *Wilson*

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- Hospital notified Wilson she would be transferred to a non-medical position and her pay would be reduced to the top end of the range for that position
- Union grieved the transfer and argued that (a) the Hospital was required to keep Wilson in an RN role or, (b) in the alternative, if the transfer was necessary then the Hospital was obligated to maintain Wilson’s pay and benefits at her pre-transfer level

## Case Study: *Wilson*

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- Arbitrator deferred the issue of whether or not Wilson should be accommodated in her RN role for another day of hearing
- With respect to the request for Wilson's salary to be paid at pre-transfer levels, the arbitrator held that there was no authority supporting the proposition that, "the duty to accommodation requires that a disabled employee placed in a lower paid position to accommodate that disability be paid indefinitely at the higher rate of the former position (para 27)

## Accommodation: Employer FAQs

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- *What do I do with performance issues that overlap with attendance issues when the attendance issues are related to a disability?*
  - Sift through the issues and deal with them separately and promptly
  - Do not be afraid to discipline employees who are on an accommodation plan
  - Don't deny accommodation on the basis of poor performance

## Case Study: *Bokhari*

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- *Ontario (Ministry of Economic Development, Employment and Infrastructure) and AMAPCEO (Bokhari) Re 2015 CarswellOnt 3073*
  - Bokhari, a former employee of the Ministry, brought a grievance alleging that he had been inappropriately selected for downsizing based on the employer's unwillingness to accommodate his disability
  - Also alleged that certain tasks, referred to in the decision as "AGCO Work," were taken from him as punishment for his accommodation requests

## Case Study: *Bokhari*

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- Bokhari employed by the Ontario government from 1999 to 2010
  - In early 2010, he was transferred into a new department for him, the Ministry of Economic Development, Employment and Infrastructure
  - New role and a new supervisor
- Immediate performance, attendance and attitude problems

## Case Study: *Bokhari*

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- Primary area of dispute with supervisor — hours of work
- She insisted on 9:30 to 5:30 even though Bokhari advised he could not work mornings
- Persisted in this position even after Bokhari provided medical evidence
- Rated Bokhari as a poor performer and removed AGCO Work from him
- Eventually selected for downsizing
  - Bokhari grieved and alleged discrimination
  - Employer alleged it had no idea Bokhari had mental health issues

## Case Study: *Bokhari*

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- Vice Chair found that Bokhari had been diagnosed with anxiety, panic attacks and depressive disorder and was actively seeking treatment for those issues in 2010
- Also found that “common sense” would have led the employer to conclude that he was suffering from mental health issues even if Bokhari had not specifically stated that he was seeing a psychiatrist

## Case Study: *Bokhari*

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- Vice Chair found that employer failed to accommodate Bokhari from the very start, when he was directed to report for work at 9:30 a.m. even though he requested a later start time
- Also persuaded that Bokhari's supervisor had little interest in accommodating him and that she was suspicious as to whether his health issues were genuine
- She kept a "log book" of his attendance and lateness issues
  - Includes notes such as "smiled while walking and eating a banana," which she evidently took as proof that he was faking his illness

## Case Study: *Bokhari*

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- Specifically found that the Ministry's attempt to confine Bokhari to normal working hours was inappropriate because it did not fit within his medical restrictions and because the Ministry gave no thought as to whether or not it could adjust its hours of work for Bokhari
- Also found bad faith on part of Ministry
  - Relied on statements in supervisor's log book and an email she sent to HR saying she would "rather find a way to say that working outside core hours is not possible"

## Case Study: *Bokhari*

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- Did find that the denial of the AGCO Work was not discriminatory — Ministry was entitled to ensure that the work was done in a way that met organizational needs and Bokhari's attendance issues made him unsuitable for this work  
“Given that Mr. Bokhari could not be relied upon to be at work on any given day, the employer exercised its management rights and assigned those duties to another employee who was already performing similar duties.”

## Accommodation: Employer FAQs

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- *Do I have an obligation to tell an employee that I think they may be suffering from a mental disability even if they have not told me they are sick?*
  - YES
  - Courts and tribunals have consistently found that employers must be pro-active with respect to disability
  - If they observe behaviour that seems bizarre or out of character, they must raise it with the employee

## Case Study: *Dupuis*

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- *Dupuis v. Canada* 2010 FC 511
  - Dupuis hired as a casual employee of the Department of Foreign Affairs and International Trade (“DFAIT”) in April of 2003
  - Contract scheduled to end in December of 2006
  - Employee resigned in August of 2006
  - Brought a human rights complaint alleging that DFAIT failed to accommodate him and constructively dismissed him
  - CHRC dismissed the complaint — Dupuis sought judicial review

## Case Study: *Dupuis*

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- Federal Court set aside the decision of the CHRC and held that it had failed to give serious consideration to the merits of the complaint
- Court held that Dupuis’ decision to resign was both “sudden” and “irrational” — in light of these factors, the employer had a positive obligation to meet with Dupuis and suggest that he see a physician
- DFAIT should have realized something was wrong because Dupuis resigned after receiving a service award from the Deputy Minister, had had discussions about a potential permanent role and had recently purchased a new home

## Accommodation: Employer FAQs

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- *Can I enter into a settlement agreement with an employee with mental health issues?*
  - Proceed with caution
  - Take extra steps to ensure that the employee understands the settlement agreement
  - Consider requesting a medical certificate

## Case Study: O'Grady

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- *O'Grady v. Bell Canada* 2012 FC 1448
  - O'Grady a 19 year employee with Bell Canada
  - Went on disability leave due to mental health issues in 2006
  - Scheduled to return to work in 2009
  - When she met with Bell to discuss her return to work, she was notified that her position had been eliminated in a 2008 restructuring — she was offered a severance package and retained a lawyer to negotiate a settlement

## Case Study: O'Grady

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- Settlement agreement signed in February 2010 — Bell Canada paid all amounts owed under the agreement
- Unbeknownst to Bell Canada, O'Grady provided her lawyer with two versions of the release: one contained an addendum wherein O'Grady maintained that she had been discriminated against — her lawyer never gave that version to Bell Canada.
- In October of 2010, O'Grady filed a human rights complaint against Bell Canada, alleging that her termination had been discriminatory and that she had been “forced” to sign the settlement agreement

## Case Study: O'Grady

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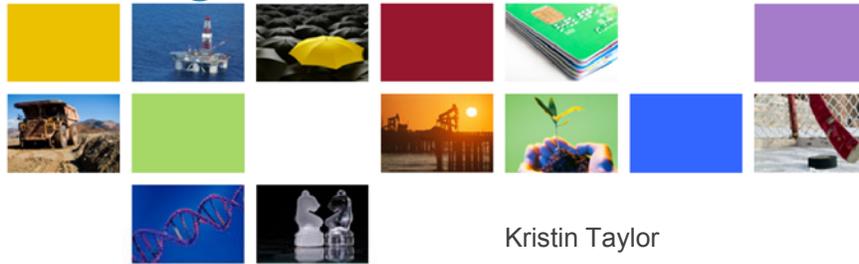
- Canadian Human Rights Commission declined to deal with her complaint on the grounds that it had been made in bad faith
- O'Grady sought judicial review of the CHRC's decision
- The Federal Court quashed the CHRC's decision and ordered it to deal with her complaint
- Court accepted O'Grady's argument that Bell Canada should have taken steps to ensure that she was “of sound mind” when she signed the settlement agreement

## Takeaways

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- Mental health issues require special consideration, especially when the nature of the illness is such that the employee's ability to make rational decisions is impaired
- Accommodation is not an excuse for poor performance, but neither is it a privilege that should only be granted to deserving employees — employer will be held to the same standard for all employees

# Attendance Management Tools



Kristin Taylor  
Where Are My Employees?  
Managing Absenteeism in the  
Workplace  
October 7, 2015

## Attendance Management Tools



## The Scope of the Problem

- Average absenteeism rate = 9.3 days per full-time Canadian employee
- Estimated direct cost of absenteeism to the Canadian economy = \$16.6 billion
- 46% of Canadian employers track employee absences

Source: The Conference Board of Canada's 2011 Report: *Missing in Action: Absenteeism Trends in Canadian Organizations*.

## Just How Difficult It Can Be To Manage...



## What Can Be Done About It

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- Track absenteeism and the reasons for it — balance privacy / confidentiality interests
- Implement an attendance management policy
  - Re-set expectations
  - Consult with stakeholders
  - Address the drivers of employee absenteeism
  - Utilize a third party provider to integrate with disability management

## Attendance Management Policy

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- Why is it important that employees show up to work?
- What is the process for requesting vacation, leaves of absence, reporting unexpected absences?
- When is a doctor's note required? To whom is the doctor's note submitted?

## Attendance Management Policy

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- How is follow-up addressed? When is an independent medical appropriate?
- What is culpable vs. non-culpable innocent absenteeism?
- What are the consequences of each? What is the process?
- Consider a Points system

## What to Avoid

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- Making assumptions
- Setting thresholds too low, too aggressively
- Ignoring culture
- Refusing to consider individual circumstances
- Tolerating culpable absenteeism
- Instilling fear that forces genuinely sick employees to come to work

# It's a Balance...



# Cassels Brock Launches Employer Law Blog

An Information Hub for Canadian Employers

Published:  
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This *e-LERT* is published by the Employment & Labour Group at Cassels Brock to keep our clients and friends informed of new and important legal issues. It is not intended to provide legal advice as individual situations will differ and should be discussed with a lawyer.

Cassels Brock is proud to introduce **employerlawblog.ca**, a one-stop destination for the latest on employment law trends with a particular focus on issues faced by Ontario's employers.

This newly revamped blog space allows contributors from across our Employment & Labour team to share their expertise and insight on timely employment and human resources related matters.

Topics range from workplace violence obligations, employment contracts and privacy concerns to workplace harassment and violence prevention. Our team also provides compliance alerts, legislative updates and important reminders regarding employer obligations and public consultations.

Our recent posts include:

- BC Court of Appeal Upholds Just Cause Termination for Long Service Employee Who Breached IT Policy
- Do Employers Have an Obligation to “Frustrate” an Employment Contract?
- Ontario Launches Public Consultations on Changing Workplaces Today in Toronto
- Reminder: New Ontario Posting Obligations Under the Employment Standards Act, 2000 Now in Effect
- Ontario Ministry of Labour Carrying out Three-Month Inspection Blitz Targeting “Precarious Employment” Violations

We believe that [employerlawblog.ca](http://employerlawblog.ca) further exemplifies the Cassels Brock commitment to sharing timely, reliable and practical commentary, information and analysis with our clients. Contributors include Kristin Taylor, Laurie Jessome, Jed Blackburn, Geoffrey Breen and Caitlin Russell.

We hope you will visit often.

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### Expertise

Geoff Breen is an associate in the Litigation Group, with a practice focused on labour and employment law and securities litigation.

Geoff regularly acts for clients engaged in civil and regulatory employment proceedings, having appeared before the Ontario Superior Court of Justice, Small Claims Court, Ontario Labour Relations Board, Human Rights Tribunal of Ontario and at private arbitrations. Geoff is also experienced in providing advice to employers on employment contracts, terminations, human rights issues and workplace policies and procedures.

In addition, Geoff is experienced in various aspects of securities litigation, including insider trading, shareholders' remedies, litigation aspects of take-over bids and dealer/broker negligence. Through this experience, Geoff has acted on matters before the courts and the Ontario Securities Commission, the British Columbia Securities Commission, the Mutual Fund Dealers Association of Canada and the Investment Industry Regulatory Organization of Canada. Geoff was also seconded to the Enforcement Branch of the Ontario Securities Commission during his articles.

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### Expertise

Laurie Jessome\* practises Employment Law. She provides advice to, and advocates on behalf of, employers on all aspects of the employment relationship, including drafting employment agreements, drafting and enforcing restrictive covenants, discipline and dismissal issues, employment standards, and human rights complaints. She is also involved in workplace safety matters and workplace investigations. Laurie has represented clients before the provincial and federal human rights commissions, the Superior Court of Ontario, the Ontario Labour Relations Board, the Employment Standards Branch of the Ontario Ministry of Labour, and in mediations and grievance arbitrations.

Laurie has authored articles on employment issues, which have appeared in prominent publications including *Lexpert* magazine, *Workplace Magazine*, *HR Professional Magazine* and *Canadian Corporate Counsel* magazine. She is co-author of *The Canadian Human Rights Act: Quick Reference* and is also a regular contributor to [employerlawblog.ca](http://employerlawblog.ca), which follows current trends in Canadian employment law with a particular focus on issues faced by Ontario employers.

Laurie sits on the board of directors and human resources committee of Fife House, a charitable organization providing supportive housing to people living with HIV/AIDS in Toronto.

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## KRISTIN TAYLOR

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**Education:** LL.B. (Recipient of Administrative Law Prize), Osgoode Hall Law School, 1993; B.A., University of Western Ontario, 1990

**Call to the Bar:** Ontario, 1995; New Brunswick, 2000

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### Expertise

Kristin Taylor is a partner in the Employment & Labour Group at Cassels Brock. She provides practical and strategic advice to employers on a wide range of employment matters including employee hiring, discipline and termination; severance packages; corporate restructuring; employment agreements and personnel policies; certification applications; privacy and AODA compliance; and employment standards and human rights issues. Kristin regularly represents employers in court in wrongful dismissal actions, restrictive covenant disputes and injunctions; in grievance arbitrations, in collective bargaining and before various administrative tribunals, including the Human Rights Tribunal of Ontario, and labour relations boards. She also conducts supervisory development and harassment prevention training to prevent workplace disputes.