

Internet Use – Is Your Job at Risk??



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Employers are entitled to prohibit employees from devoting substantial work time to personal matters.

Recent innovations in technology and electronic media have redefined the way businesses operate in the 21st century. However, as with all good things, there is a dark side to this continuing modernization and the reality of electronic media abuse in the workplace, resulting in decreased productivity and overall economic loss, is of great concern to employers.

Studies reveal that up to 30%-40% of internet use in the workplace is not business related. It is to be expected that employees will require some personal time while at work to communicate with family members, arrange appointments outside of work hours, pay bills online, etc. and a zero-tolerance approach by employers towards such personal activities would not likely be upheld by the Courts. However, problems arise when an employee's personal use of the internet at work becomes excessive, thereby constituting "theft" of the employer's time. The Alberta case of Mount Royal College and Mount Royal Support Staff Assn. (Horan Grievance) [1998] A.G.A.A. No. 12 ("Horan"), upholds the right of employers to terminate employees for excessive personal use of the internet, email and other work equipment during business hours.

In the Horan case, Ms. Stephanie Horan, a library secretary with 14 years of service, was terminated for excessive use of her employer's resources and equipment, including email, the internet and sending personal faxes on work letterhead, which she was using to operate a part-time dog breeding business. Although Ms. Horan was explicitly warned by her employer on several occasions, both verbally and

in writing, not to use work time and work equipment to conduct her personal affairs, she continued to do a "substantial" amount of personal work during business hours. Ms. Horan's termination was upheld by Arbitrator Ponak, who acknowledged that "an employer has a right to expect employees to focus their attention during working hours on activities that benefit the employer." In rendering his decision, Arbitrator Ponak distinguished between mere use of an employer's equipment for personal matters, which he felt was acceptable, and the excessive use of such equipment during work hours as displayed by Ms. Horan, which warranted termination.

The Horan case serves as a warning to employees not to let occasional personal use of the internet and e-mail during business hours escalate into excessive use that interferes with the performance of work duties.

While the Courts are cognizant of the growing role the internet is playing in the lives of Canadians and our growing reliance on it, they will not permit employees to neglect their responsibilities to their employers during working hours. It appears that excessive personal use of the internet and email during business hours may justify disciplinary action by employers, up to and including termination, particularly in situations where there is a company policy regulating such use in place and clear warnings have been issued to the employee. **MB**

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