



## WHAT IS AN EMPLOYER ENTITLED TO WHEN AN EMPLOYEE IS ILL?

An area that often vexes employers attempting to manage employee absences involves the ability to request information from disabled employees. One of the ways in which disabled employees are obligated to contribute to the accommodation process is by providing their employer with sufficient information to allow their employer to understand the nature of their disability and what accommodation, if any, may be required.

When an employee is on medical leave, his or her employer is entitled to information regarding the general nature of the employee's illness or disability, any expected date of return, and information regarding the work that the employee is capable of performing.

However, an employer is not entitled to more specified information, such as information that pertains to an employee's medical history, specific diagnosis, or symptoms.

In terms of the poor attendance of ill employees, an employer has the right to implement attendance management programs ("AMPs"). These types of programs are required when there is a threshold level of absenteeism which triggers a set of procedures for counselling, discussion and measures to be taken to improve the situation.

AMPs must comprise a set of steps that are reflective of the employer's perception of the seriousness of absenteeism issues. They must also facilitate communication from the employee to the employer. AMPs must not interfere with applicable human rights legislation or appear disciplinary or punitive.

Employers must avoid the rigid application of an AMP. There should be some room for discretion at every step of the process to account for individual circumstances. Situations requiring the management of employee absences are highly contextual and fact-specific.

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