

Employer rights Quiz Answer Sheet

Identify the below statements as true or false

Attendance management programs are just meant to harass me. *Possibly,*

but that is not the reason arbitrators view AMP's as legitimate. Arbitrators view AMP's as falling under the right that employers have to manage their workplaces. If focused on non-culpable absenteeism the program should not be disciplinary in nature, be supportive and encourage good attendance.

My medical information is none of the employers business. *Yes and No.*

Privacy legislation protects your right to control access to who can view your medical information. Arbitrators have ruled that employers have a limited right to ensure sick leave benefits are used appropriately. The employee is not required to share any of their medical information with the employer, but the employer may have a right to deny benefits, accommodation, or a return to work.

The employer cannot fire me if I am legitimately sick. *False*

Arbitrators have allowed employees to be discharged for non-culpable absenteeism. *but* To do this the employer must show that they have followed a number of steps.

Last chance agreements are not worth the paper they are written on. *Yes and no.*

Last chance agreements are seen, by arbitrators, as a way to give the employee a "last chance". Arbitrators are reluctant to interfere with these agreements especially when the union has been involved. Despite this reluctance, the duty to accommodate still applies and must be considered prior to dismissal.

The employer cannot tell me which doctor to see. *Usually true but*

in rare circumstances arbitrators have allowed employers to name a doctor of the employer's choosing. This is seen as a last resort when the employer has compelling reasons for making this intrusive request.

The employer cannot challenge my doctor's note. *Possibly*
on first instances of sickness employers are entitled to know that you have seen a doctor and that you are able to return to work. Depending on the circumstance the employer is allowed to ask for information such as nature of the illness, restrictions, prognosis...

A doctor's note needs to only say that I was sick and if I can come back to work. *Depends.* See above

Attendance letters are meant to discipline me. *False*

Arbitrators have ruled that letters that are a part of AMP may not be disciplinary in tone as the program should be supportive in nature and promote improved attendance for non-culpable absenteeism

If I sign a last chance agreement I forfeit my right to grieve dismissal. *False.*

Although arbitrators are reluctant to interfere with agreements made between the employer and employee there have been occasions when grievances have been successful.

If I sign a “Waiver of Representation” I’m not entitled to union representation. *False.*

Wavers of representation are a tool for the employers to prove that the employee was aware that they had the right for union representation. Arbitrators have reinstated employees because it was unclear if they knew they were entitled to representation.

If I am only off for a few days here and there I am safer then if I am off for long chunks of time. *False*

Employees enjoy less protection from dismissal when their absences are of the short term and intermittent type. Dismissals are, most often, upheld when the employer can show that the absences are excessive and that there is no foreseeable improvement. Intermittent absences are hard to predict improvement.

The employer does not have to accommodate an employee if they do not know the employee has a disability. *True and False*

Employers have successfully argued that they cannot accommodate what they are not aware of. **BC Teachers Federation v. Kamloops Thompson School District No. 73, 2005.** However, where there are signs of a disability or the employer is aware or ought to reasonably be aware, the employer has a duty to make further inquires. **Fendick v. Lakes District Maintenance Ltd, 2006.**