

Time is Money: Addressing Time Theft in the Workplace

June 12, 2023

Every minute counts in the workplace, but what happens when employees start stealing worktime for personal gain? This important issue is known as time theft which is the act of employees taking advantage of company time for personal gain or activities not related to work. This can include things such as taking long breaks, arriving late, leaving early, or using work time for personal tasks such as social media or online shopping.

Time theft can have a significant impact on a business's bottom line. It can result in lost productivity, decreased morale, and increased costs. In addition, it can be difficult to detect and prevent, making it a pervasive problem that strikes at the foundations of the employment relationship: honesty, integrity, and trust.

These issues were addressed a recent decision by Arbitrator Luborsky in ***Enbridge Gas Inc. v UNIFOR, Local 975, 2023 CanLII 2937***. In that case, the employee was discovered to have been making multiple trips from the job site to his home, along with many recorded hours of his work vehicle sitting idle during the workday. The employee, however, submitted timesheets claiming full payment for attending scheduled jobs on those same days. The employer proceeded to terminate the employee's employment for time theft, dishonesty, and breach of trust.

In defending himself, the employee stated that his misconduct should be mitigated due to his fear of COVID-19 and the trauma, fear, and mental distress that it caused. While the arbitrator considered this to be a potentially legitimate basis to mitigate the seriousness of the misconduct, he ultimately rejected it finding that the employee's "*personal fear and heightened anxiety that were likely experienced by many others, are not enough to outweigh the breadth of the extensive misconduct in the present case.*" The termination of the employee's employment was upheld.

Key to the employer's success in defending against this complaint was their ability to document and prove the employee's behaviour, lack of remorse, and the extent of the deception and time theft engaged in. In your workplace, you should similarly consider implementing measures to prevent time theft, protect your business, and defend yourself if necessary. Here are some tips to keep in mind:

1. **Clearly Communicate Expectations:** One of the most effective ways to prevent time theft is to be clear about what is expected of employees. This can include setting clear work hours, outlining break times, and communicating rules around the use of company resources such as computers and phones. Make sure that employees understand the consequences of time theft and the importance of adhering to company policies.
2. **Use Time Tracking Tools:** There are a variety of time tracking tools available that can help employers monitor employee attendance and work hours. These tools can include biometric time clocks, online time tracking software, or mobile apps. By using these tools, employers can more easily detect and prevent time theft.
3. **Monitor Employee Activity:** While it is important to trust your employees, it is also important to monitor their activity to ensure that they are staying on task. This can include monitoring internet usage, reviewing email logs, and checking in with employees regularly to ensure they are meeting their goals. Please note that employers must be mindful of their obligations regarding electronic monitoring when using such tools.
4. **Address Issues Quickly:** If you suspect that an employee is engaging in time theft, it is important to address the issue quickly. This can include investigating and/or speaking with the employee directly, providing additional training, or taking disciplinary action if necessary. By addressing the issue quickly, you can minimize the impact

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on your business and prevent the behavior from continuing.

By taking proactive steps to prevent time theft, employers can protect their businesses and ensure that their employees are working efficiently and effectively. Likewise, these measures will pay dividends when defending against frivolous claims brought by employees.

Please note that this bulletin is intended for informational purposes only and does not constitute legal advice or an opinion on any issue. We strongly recommend that you contact one of our Miller Canfield lawyers with any specific questions you may have so that those questions can be addressed properly with you.