

# Managing the Difficult Employee

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January 28, 2025

 West Coast Workplace Law

# Disclaimers

- ▶ Legal information, not legal advice
- ▶ Discretion should be used
- ▶ Laws change quickly!

# Learning Goals

- ▶ Employees on Sick Leave
- ▶ Workplace Misconduct and Conflict
- ▶ Misconduct vs Incompetence
- ▶ Progressive Discipline
- ▶ Minimizing Legal Risks in Terminations
- ▶ Q & A

Polls - Share your thoughts!

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# Employees on Sick Leave

- ▶ Rights and obligations under BC ESA
- ▶ Sick notes or IMEs
- ▶ Navigating human rights liabilities under BC Human Rights Code
- ▶ Obligations during medical leave

# Workplace Misconduct and Conflict

- ▶ Examples of misconduct: harassment, bullying, refusal to perform tasks
- ▶ Legal obligations to address harassment (WorkSafeBC obligations)
- ▶ Scenarios...

# Scenario 1 - Workplace Harassment Allegation

- ▶ Situation:
  - ▶ Sally, an MOA, reports inappropriate comments about her appearance made by a coworker.
- ▶ What are the next steps for you as an employer?
  - ▶ Poll!

# Incompetence vs. Misconduct

- ▶ Distinguishing skill gaps from deliberate misconduct
- ▶ Considerations
- ▶ Duty to inquire if disclosure or suspected mental health, addiction, disability, etc



# Scenario 2 - Task Refusal

- ▶ Situation:
  - ▶ John, a nurse, refuses to assist with a medical procedure, citing discomfort due to a lack of experience.
- ▶ What are the next steps for you as an employer?
  - ▶ Poll!

# Progressive Discipline

- ▶ What is it?
- ▶ Possible Steps:
  - ▶ 1. Verbal warning
  - ▶ 2. Written warning
  - ▶ 3. Final written warning
  - ▶ 4. Termination for cause
- ▶ Importance of clear policies, training and documentation
- ▶ Address issues promptly!
- ▶ Performance Improvement Plans (PIPs)

# Takeaways & Final Thoughts

- ▶ Sick Leave: Balance needs for information & legal obligations
- ▶ Workplace Misconduct: Investigate promptly
- ▶ Incompetence vs. Misconduct: Know the difference
- ▶ Progressive Discipline: Carefully choose steps & document
- ▶ Document, document, document!
- ▶ Minimize Legal Risks: Seek legal advice early



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