

## Workplace rules

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What are appropriate rules for the workplace? My employer wants to impose new rules that seem unreasonable to me. Are we required to comply?



Canadian workers live every day with a variety of workplace rules that may dictate everything from their hair length to their footwear.

In labour law, the employers power to make workplace rules usually comes from the management rights clause of a collective agreement. These rights are set out in article 4 of the Paramedical Professional Collective Agreement, and article 3 in the Nurses Provincial Collective Agreement. In all collective agreements, this is typically one of the first articles in the agreement.

Arbitrators have said that employers can make rules as part of their inherent legal rights, whether or not there is a clause in the collective agreement.

Of course, this doesnt mean employers can lay down any rules they want.

Arbitrators have set out some guidelines for how they use their power. First, a workplace rule must be consistent with the contract. If the rule violates a clause in the agreement, an arbitrator is unlikely to let it stand.

Second, the rule must be reasonable. By this, arbitrators generally mean the rule must relate to the employers legitimate business interests or be necessary to carry on operations in an orderly and efficient manner. They tend to give employers some latitude on this point, unless the rule is particularly intrusive to workers, such as restrictions on their personal appearance.

Third, the rule itself must be clear, and the employer must tell workers about it before disciplining someone for breaking it. If the employer wants to fire a person for contravening the rule, workers must also be warned in advance that this could happen.

An employer will still be required to show just cause for discipline or discharge, whether or not a rule was involved, unless the collective agreement says otherwise.

Workers may not be able to rely on the fact that they didnt know about a rule if their conduct is obviously wrong. It doesnt take a written rule for people to know that stealing from the workplace, for example, or being abusive to a client, are not approved activities.

Fourth, the rule must be consistently enforced. If everyone ignores the rule and nothing happens, the employer will not be able to take sudden punitive action later without warning people in advance. Applying the rule selectively to only certain individuals and not others is also frowned on by arbitrators, as this is an arbitrary application of the rule. Ultimately, the case law in this area makes it clear - while employers have the right to make rules, these must be reasonable, legitimate, work-related rules in order to be enforced.

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