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CURRENT NEWS AND PRACTICAL ADVICE FOR EMPLOYERS SEPTEMBER 19, 2012

Employee's tirade was the last straw
Employee had history of conflict and had last chance agreement prohibiting outbursts
BY JEFFREY R. SMITH

AN ONTARIO worker's heated argument with a supervisor was the "last straw" that gave her employer just cause for dismissal, an arbitrator has ruled.

The employee, referred to as Susan X, worked at the Northumberland County Materials Recovery Facility in Cobourg, Ont. Her job was to monitor and sort through materials for recycling along a moving line. Employees at the facility moved around on different assignments with different co-workers as required.

JUST CAUSE

Susan, who started working at the facility in 2002, had a strained relationship with several co-workers. Her ex-husband, from whom she separated in 2008, also worked at the facility. After the separation, management emphasized the need for them to keep personal life and home life separate and they would try to schedule them on separate shifts, but there would be no guarantee that could happen all the time. Since there were only 36 employees at the facility, it was likely they would have to work together at some point.

Susan agreed to the arrangement, though she claimed to be worried about working near her ex-husband because they might get into arguments. However, they still drove to and from work together and often ate lunch together.

Susan had a history of friction with co-workers and misconduct, including failing to wear safety equipment, pulling down a co-worker's pants, yelling, using profanity and arguing with people. She was warned several times that her behaviour was unacceptable and twice received five-day suspensions for her misconduct. After one dispute that led to an angry tirade in her supervisor's office, Susan was asked to sign a code of conduct. In June 2010, she screamed at her supervisor after she was caught without safety glasses, and the county drew up a last chance agreement.

The last chance agreement, signed on June 18, stated that Susan had "one last opportunity" to remain employed at the facility. The agreement required her to avoid any more "angry outbursts and inappropriate behaviour" and said she must seek anger management counselling through the employee assistance program. Failure to abide by the agreement would result in "immediate discharge from employment by the county without notice or severance." Susan also wrote a note to management saying she would "not blow up anymore."

Refused to work with ex-husband

On Sept. 22, 2010, Susan complained to her supervisor that her line wasn't going fast enough and her co-workers were "miserable people" who were slowing down the line just to annoy her. Susan's supervisor asked her and some other employees to move after lunch to another line in the facility as someone on the other line had gotten sick. However, Susan's ex-husband was working in

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Dismissal for fight too much for manager who didn't start it: Court

A MANITOBA manager should not have been fired for his involvement in a physical altercation that another employee started, the Manitoba Court of Queen's Bench has ruled.

Ramadan Gjema, 36, was a plant general manager for Mercury Specialty Products, a metal tube manufacturer in Winnipeg. After leaving Mercury in 2001 to get an engineering diploma, Mercury convinced him to return to the company as a general manager less than three years later.

When Gjema started as a general manager, Mercury gave him an employment contract that had a termination clause entitling him to three months' severance after one year, six months' severance from one to two years and one years' severance with more than two years of service. They didn't sign the contract but they agreed on the severance provisions in a series of emails.

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THE WORKPLACE SAFETY SOURCE FOR OHS MANAGERS AND HR PROFESSIONALS NOVEMBER 2012

Canada Post builds for health, safety
Mail processing plant built with environment, employees' well-being in mind
BY ZACHARY PEDERSEN

WHEN CANADA POST built its mail processing plant in Winnipeg, the company decided to go with a design that had special consideration for its employees' health and safety.

Officially opened on June 4, 2010, one of the most prominent considerations for designers was the building's air quality. A dedicated exhaust from the photocopy room ensures fumes are directed outside rather than circulated throughout the facility. Similar features are included in the rooms where staff charges batteries.

"The fumes from our battery charging for our forklifts would be a primary [concern]," said Michael Bryson, Canada Post's director of real estate project delivery. "Any welding we would do in our mechanical rooms all are exhausted directly outside so there are no fumes within the building."

To ensure employees do not find themselves dealing with contamination, a separate storage building houses hazardous materials on the site to keep potentially harmful chemicals away.

Canada Post was so focused on creating a healthy atmosphere that it hired consultants specializing in health and safety construction.

"Apart from the fact that we use professional architects, mechanical and electrical engineers to ensure that the building met all building codes, we also engaged a third-party life safety expert-consultant who then reviewed the design from a life-safety perspective," Bryson said. "They reviewed all the drawings and the plans to ensure that all of the building's egress codes were met."

Canada Post also included aspects to help encourage healthier lifestyle choices.

"Health and safety for the people that are going to be occupying the building is an important part of LEED."

"A bicycle-storage room is located near the front entrance of the building and change rooms with showering facilities are located on the main floor just off the main lobby," he said.

One of Canada Post's main goals was to create its first LEED-certified mail processing plant. LEED, which stands for Leadership in Energy and Environmental Design, is a third-party certification process that recognizes leadership in green building. It provides a way to verify a building was designed and built to improve energy savings, water efficiency, indoor environmental quality and reduce harmful emissions.

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Westray: What's changed in 20 years
Miners deaths a 'wake-up' call for all jurisdictions
BY MELISSA MANCINI

THIS YEAR MARKS 20 years since the Westray mine explosion, a occupational health and safety disaster that killed 26 miners in Plymouth, N.S.

Maureen Shaw, a safety consultant and president of Act Three Consulting in British Columbia, can recall exactly what she was doing when she heard about the explosion.

She was preparing to speak at an international safety conference in

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Canadian Safety Reporter

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New Brunswick adopts shared-risk pension model
Union says changes in new plan are not ideal, but current alternatives are disastrous
BY MELISSA MANCINI

NEW BRUNSWICK INTRODUCED a shared-risk pension model in July for public-sector workers that is designed to keep unfunded liabilities down.

The model, developed by a special task force, is heralded as being a creative solution to the province's pension woes. Between 2008 and 2009, New Brunswick had an increase in pension expenses of $169 million.

Its credit rating was downgraded by Moody's in 2009 and in 2010 it was placed on a negative outlook by Standard and Poor's, according to the government of New Brunswick.

"It doesn't come without sacrifice, but I think you have to accept where we are, why we got there and how we get out of it."

The new model is based on a successful Dutch pension model.

"Both jurisdictions face similar economic and demographic challenges, including an aging population, growing life expectancy and market returns that are not keeping pace with payouts and indexing," according to the government.

Premier David Alward called the new model an innovative way to address issues before it's too late. The new model "ensures that public sector pensions are affordable for taxpayers in the long run," according to the province.

The model is "fabulous" for sponsors and plan members, said Jana Steele, a partner with Goodmans law firm in Toronto and the head of the firm's pension, benefits and compensation law group.

The new model will see pension funds put into a less volatile mix of investments and "firm rules to guide management of surpluses and deficits," according to New Brunswick's government.

It also seeks to address issues that the province's defined-benefit plans have faced over the years that threaten their long-term sustainability. These include low interest rates, an aging population and unstable capital markets.

The funding processes and risk management requirements mandated as part of the new plan are there to help ensure the benefits are there, said Steele.

But not everyone is as thrilled with the plan as she is. Union leader Gordon Black saw the changes as necessary, but not ideal.

"We looked at it as an alternative to benefit cuts or uncontrollable contribution increases. So we supported it," said Black, the Canadian Union of

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UPCOMING ISSUES
Next week's issue will include collective agreement summaries for the Treasury Board and PIPSC for the computer systems group, Capital Care in Edmonton and CUPE for general support services, and Hallbeck in Toronto and the Steelworkers for employees making adhesives and polymers.
The feature article will investigate the repercussions of Bill C-377, the federal private member's bill that aims to place unions under greater reporting requirements for their financial dealings.

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THE COMPLIANCE AND STRATEGY SOURCE FOR PAYROLL AND HR PROFESSIONALS NOVEMBER 2012

Is the cloud the right choice for payroll?
Cloud providers insist safety is priority, but companies must ask questions: Lawyer
BY ZACHARY PEDERSEN

LINDA WOOLLEY REMEMBERS when payroll administration was a lot more hands-on.

"I've seen it go from punch card to mini computers to PCs to servers and PCs, client servers, web servers, Internet," says the president of Norfolk Solutions, a payroll and human resources software provider based in Uxbridge, Ont.

When new technology was introduced, she was always hesitant to embrace the change — something she sees in potential clients when she brings up payroll's newest technologies.

"I had that same fear when we gave up the punch cards because I couldn't feel our programs anymore. I couldn't see them, touch them," she says. "There was just a period of time where you had to go through this build up of confidence and we're at that stage right now where most people now know the word 'cloud.'"

Software deployed solely over the Internet and licensed to customers through a subscription is known as cloud computing. Local software isn't necessary because the application is web-based. This means information can be accessed from any location and maintenance or upgrades are conducted by the provider.

ADP Canada's latest product, Workforce Now, is cloud-based and offers ease-of-use to clients, says Chaayanath Mysore, Toronto-based vice-president and chief information officer of ADP Canada.

"We manage (the system), we push changes out and clients have access to these changes," he says, adding upgrades happen almost instantly. "The client (doesn't have) to do anything other than come in the next day and just log in to this cloud and they see the changes that are available."

ADP has been offering similar services since 2001 in the software as a service (SaaS) model, he says.

SaaS offerings are end-user applications hosted by third party vendors that can be accessed remotely. Cloud computing is when a third party provides and supports computing infrastructures and services that companies pay for according to usage.

Offering a cloud-based product gives clients the ability to combine applications, Mysore says.

"They're not looking for one vendor for payroll, another vendor for HR and another vendor for time because the moment you do that you're really incurring an additional cost having to integrate the solutions," he says.

Cloud services keeps costs down because the subscription model

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NB takes on pension reform
New shared-risk model 'fabulous': Lawyer
BY MELISSA MANCINI

NEW BRUNSWICK INTRODUCED a shared-risk pension model in July for public-sector workers, which is designed to keep unfunded liabilities down.

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