FTR Now

The Holiday Party: A Checklist for Employers

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With seasonal festivities and holidays just around the corner, it's that time of year again to consider the proactive steps employers can take to ensure the health and safety of employees who attend office parties or other celebrations.

In this *FTR Now*, we are pleased to bring you our annual checklist of measures to consider implementing to help plan a safe holiday celebration for all.

The Law on Employer Liability

Over the years, a number of court decisions have signalled that employers face a risk of liability should an employee be permitted to drink too much at a work-related function. In addition, the *Occupational Health and Safety Act* was amended earlier this year to impose new obligations on employers to ensure a workplace free of harassment, which expressly includes "sexual harassment."

Where an employee becomes intoxicated and engages in inappropriate behaviour, employers must be aware of the resulting potential negative impact on the employment environment generally, and on an employer's reputation. There is also the potential for safety-related liability, especially should an intoxicated employee drive home afterward, with the possibility of injury to the employee or to an innocent third party.

Some relatively recent decisions are also of interest. In 2015, an Ontario court allowed a claim to proceed against an employer which alleged, among other things, that the employer failed to properly supervise an employer-hosted party at which the plaintiff was sexually assaulted and forcibly confined by her supervisor. As of writing, this action has not yet proceeded to trial. We will continue to follow the progress of this case.

In 2013, an Alberta case suggested that liability can arise even in the absence of an alcohol-related incident. The Alberta court found an employer liable for the death of an employee where the employer allowed its employees to operate faulty, rented equipment (a calf-roping machine) at a work-related function, without proper training or oversight.

Holiday Celebration Checklist

Prudent employers should take steps to provide all attendees with a safe and enjoyable environment, and to provide safe transportation alternatives for returning home.

Safety Tips

- When renting any kind of entertainment equipment or machinery, ensure that it is properly assembled, maintained and operated by trained staff. Better yet, hire a competent operator to operate the equipment on your behalf.
- Prior to the event, inform employees that all workplace rules and policies are in effect, including with respect to sexual harassment, harassment and workplace violence.

If your celebrations will include the consumption of alcohol, consider adopting the following safety-enhancing measures:

- Prior to the event, inform employees that they are not to drink and drive, and remind them at the start and end of the

event.
- Provide a limited bar that is supervised, and serve food.
- Hire a trained third party (who can monitor consumption) to tend the bar and serve the drinks to employees and guests.
- Close the bar an hour or more before the party ends.
- Monitor employees' alcohol consumption through designated alcohol monitors.
- Consider utilizing a ticket system to limit the number of drinks an employee or other guest may have during the party.
- Set up alternative transportation options for employees prior to the party, and be sure to communicate them clearly to employees.
- Provide taxi chits to employees, and do this at the outset of the event. Designate employees to proactively distribute the chits.
- Consider establishing carpools with designated drivers who agree not to drink at the event.
- Assist in arranging for hotel rooms for employees who live far from the event, perhaps by arranging a reduced rate with a nearby hotel.

Even if employers take positive steps to limit alcohol consumption, there may be some employees who drink too much and become intoxicated. If that happens, take positive steps to ensure that the employee does not drive. For example:

- Consider a system whereby employees leave their car keys with an attendant at the start of the evening to avoid the situation of having to remove keys from an intoxicated guest.
- Arrange to have a sober co-worker drive the employee home. Alternatively, call the employee's spouse. Don't just offer to do so.
- Insist that the employee take a cab, and pay for it.
- If all else fails, and the employee insists on driving in an intoxicated state, call for police assistance.

By planning ahead of time, employers can help avoid many of the problems associated with excess alcohol consumption, and can ensure that an enjoyable and safe time is had by all.

We wish you and your employees an enjoyable and safe holiday season.

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