

IMPORTANT DECISION RE: EMPLOYMENT PRIVACY LAW

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Clients often ask if an employer may brief employees (or send a memo) when a key employee leaves the organization.

Employers often wish to communicate in some way with remaining employees in these situations in order to ease concerns they may have about another employee's departure (voluntary or otherwise).

The Alberta Privacy Commissioner issued an Order on June 14th, 2010 which makes it clear that employers must be very careful about their choice of words in these situations and that if too much is said, the employer may face civil liability.

The recent Alberta case involved an employee ("X") who left Insight Psychological Inc. in difficult circumstances. Insight's management sent a memo around to all employees advising of X's departure and identifying the person who would be replacing her. The memo went on in the second and third paragraphs to state that X had found employment elsewhere and that all employees were reminded of various key values held by the company.

X found out about this memo and made a complaint to the Alberta Information and Privacy Commissioner's office ("OIPC").

The OIPC Order finds that the second and third paragraphs of the memo breached the Alberta Personal Information Protection Act ("PIPA") because they went beyond what was necessary to advise employees of X's departure. The OIPC found that the statement re: "key values" was, in essence, an indication that X had not



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acted consistently with the organization's key values. This was personal information about her and it was not necessary for this to be disclosed to the remaining employees.

This OIPC order means that X now has a cause of action for any loss or injury she may have suffered as a result of the

employer's breach of PIPA (e.g. damage to her reputation, etc.)

If you would like a copy of this decision or assistance with any privacy law matter, please contact your usual relationship lawyer at Davis LLP or any of the lawyers listed below.

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