



Winter is Coming!

*Covering Your Employer
A*\$ as We Head Indoors*

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Presentation Roadmap

1. Infectious Disease Emergency Leave (IDEL)
2. Other Accommodations
3. Employer Liability
 - a. Bill 218 - Public Health Guidance
 - b. Occupational Health & Safety Liability
4. Layoffs & Terminations
5. Q&As

EXIT



The Infectious Disease Emergency Leave (IDEL)

Infectious Disease Emergency Leave (IDEL)

- Unpaid leave
- For reasons related to COVID-19

Reasons an Employee Can Take the IDEL

- Under medical investigation, supervision or treatment due to COVID-19
- Following a public health order related to COVID-19
- In quarantine - at the direction of an official
- Employer's concern regarding exposure

Reasons an Employee Can Take the IDEL cont.

- Providing care or support because of a matter related to COVID-19
- Includes staying home with children where daycare or school is closed, or where the employee wants to keep the kids home due to fear of exposure

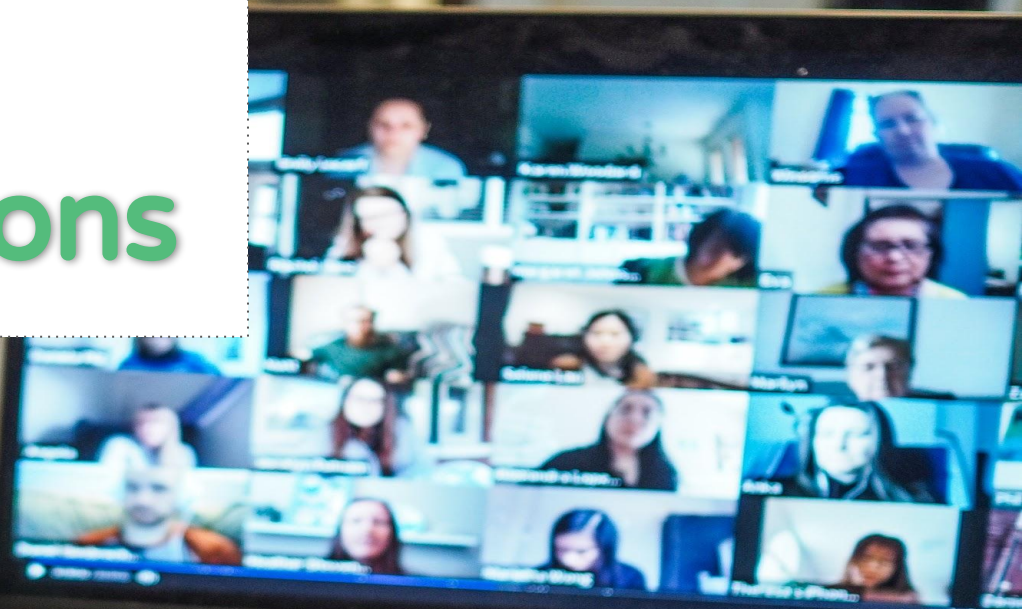
Timing of the IDEL

- **Retroactive to January 25, 2020 - until the employee no longer meets the requirements or until COVID-19 is no longer a designated infectious disease**
- **Can be taken in partial days**

Proof of Entitlement of the IDEL

- **Cannot require a certificate from a physician or nurse**
- **Evidence reasonable in the circumstances**

Other Accommodations



Other Accommodations

- IDEL is an unpaid leave
- Employees may have entitlements to other accommodations, eg. work from home, flexible hours etc., if entitled under the *Human Rights Code*

Employer Liability: Covid-19 in the Workplace

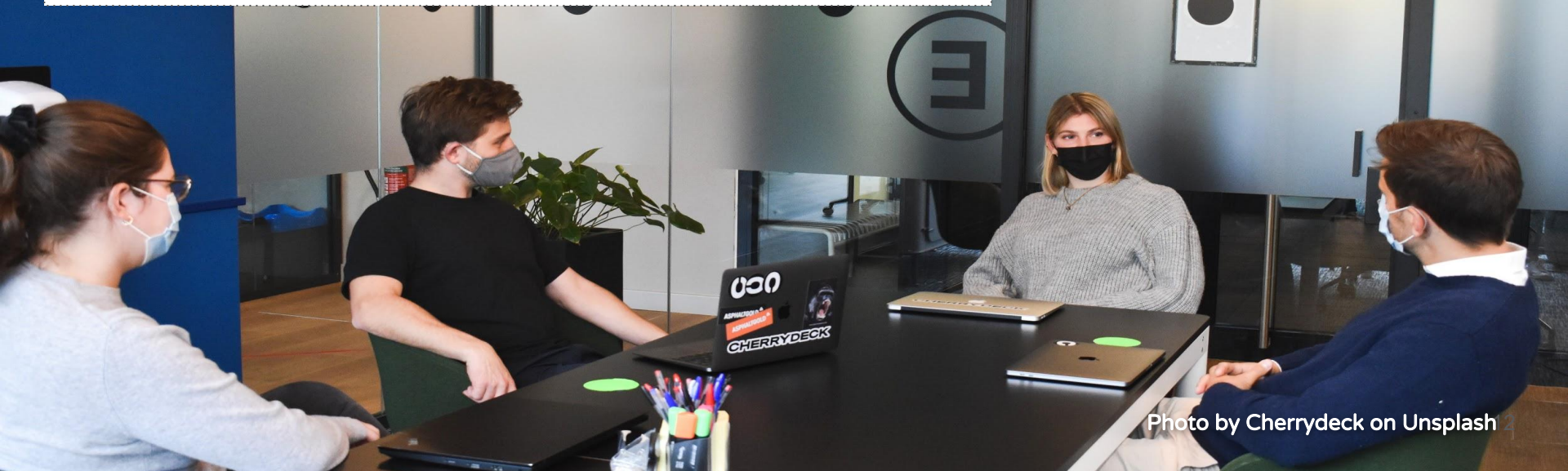


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Bill 218: Supporting Ontario's Recovery and Municipal Elections Act, 2020

- Passed on Monday
- No liability for COVID-19 infection or exposure where:
 - Made a good faith effort to act in accordance with applicable public health guidance & applicable law
 - The act was not gross negligence

Bill 218 - Public Health Guidance, includes:

- Chief Medical Officer of Health
- Public health officials in the Government of Canada
- Ministers or ministries of the Government of Ontario or Canada and its officers or employees, and municipalities and their officers or employees

Bill 218 - Protection applies:

“regardless of any conflict or inconsistency in the public health guidance or laws applicable to the person” [subsection 2(2)]

Bill 218- Good Faith Effort =

“an honest effort, whether or not that effort is reasonable”

Bill 218 - Non-application to Exposure in the Course of Employment

- Relating to employment and the performance of work where an employee is exposed to or infected with COVID-19 in the course of or as a result of employment, regardless of whether or not the employer has workers' compensation coverage

Bill 218 - Non-Application If You're Open When You Should be Closed

Non-application, required closure

- 3 Section 2 does not apply with respect to acts or omissions of a person that,
 - (a) occurred while a law required the person's operations to close, in whole or in part; and
 - (b) relate to an aspect of the person's operations that was required to close under the law.

Occupational Health and Safety Liability

- Employees have the right to refuse unsafe work
- Work must be “likely to endanger” themselves or others
- Not applicable to workers where danger is inherent to or a normal condition of the worker’s employment or the worker’s refusal would directly endanger the life, health, or safety of another person
- Most COVID-19 work refusals have been denied by the MOL

LAYOFFS & TERMINATIONS

SORRY
WE ARE
CLOSED

COVID-19

Photo by Anastasiia Chepinska ²⁰
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Layoffs

- Until January 2, 2021, layoffs and hours reductions are deemed IDELs and not constructive dismissals under the ESA
- Employee benefits must be continued
- Service accrues

Layoffs January 3, 2021 onwards

- Will be constructive dismissals unless the employer has the right to layoff or the employee agrees
- Where the employer has the right to layoff, the layoff clock resets on January 3, 2021

Length of a Layoff

- 13 weeks - April 4, 2021
- 35 weeks if benefits are continued or other conditions met - September 5, 2021

Terminations

- Permanently end the employment relationship
- No reason needed if terminating without cause
- Without cause = provide reasonable or contractual notice

Q&As



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Takeaways

- IDEL will cover employee leaves in many situations
- Human Right Code may require other Covid-19 related employee accommodations
- Bill 218 - make reasonable efforts!
- Employers do have a duty to provide a safe workplace
- IDEL for layoffs continues until Jan 2, 2021
- Jan 2, 2021 layoff clock restarts

Questions?

To learn more about our team: <https://springlaw.ca/team/>

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Thank You!