

Changing Workplaces Review

Submission by

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Introduction

- *Thank you to the Special Advisors - **C. Michael Mitchell** and **the Honourable John C. Murray** for the opportunity to take part and submit our feedback within the *Changing Workplaces Review* process.*
- I am representing an Ontario Tier One Automotive Supplier with approximately 500 employees.
- The automotive sector is experiencing intense competitive pressures similar to many other industries. We are constantly challenged to make our processes better, faster, smarter and/or less expensive to remain competitive.
- With these ongoing efforts, I'm here today to provide my respectful feedback on the ineffectiveness of the Personal Emergency Leave under the Employment Standards Act 2000 (ESA) and respond to **Q7** : **Question 7** from your *Guide to Consultations*.

Personal Emergency Leave (PEL)

Current PEL Process has:

- 1. POOR PROGRAM DESIGN/REQUIREMENTS**
- 2. LACK OF ACCOUNTABILITY**
- 3. COSTLY and CONFUSING ADMINISTRATION/ LOST PRODUCTIVITY**

Personal Emergency Leave (PEL)

POOR PROGRAM DESIGN/REQUIREMENTS

www.worksmartontario.gov.on.ca **website describes PEL:**

“If you work for an employer that regularly employs **at least 50 employees**, you are **entitled** to personal emergency leave”

The current Personal Emergency Leave (PEL) days are a good example where Ontario is not very competitive. Only one other province, provides the same number of protected leave days. In the United States, our number one competitor, some states provide protected leave only for “serious illness” which would discourage employees from using these days for casual absences. This is an area where a proper check on competitive practices by jurisdictions would be welcomed by the manufacturing sector.

At a minimum, we would not want any expansion in the number of days or the coverage offered by these days (i.e. It should not be mandatory that they be paid days).

Personal Emergency Leave (PEL)

POOR PROGRAM DESIGN/REQUIREMENTS

Many larger employers likely already had existing programs for their employees to assist with personal leave of absences (Short Term Disability, Long Term Disability, additional vacation weeks, Bereavement Leave, and an existing program for approved unpaid leave of absence). You've reached out to the wrong target audience and added confusion, unnecessary administration and significant costs in lost productivity. It also adds confusion to current programs – *we had to eliminate our personal leave of absence program which was much more straight forward to replace with personal emergency leave. Our other program encouraged employees to give advance notice for important personal events and/or matters that they could gain pre-approval for missing scheduled shifts and therefore the company could plan ahead. This is no longer the case; the two programs could not coexist.*

The word **entitled** can also be taken extremely literally. There is no room for accountability in the process. The employee made a decision to not report to their scheduled shift for a personal reason that they deemed more important. It is very easy for some to settle their important reason into the very grey area of the legislation for job protection. Using language like "...tell your employer **as soon as possible** after starting the leave..." or the poorly defined option of "**urgent matters**" leaves room for *dishonest behaviour*.

Personal Emergency Leave (PEL)

ACCOUNTABILITY

Employers develop processes to require documentation for certain absences related to the employee (i.e. Doctor's note) to gain some sort of credibility to the process. This puts a significant strain on our healthcare system with unnecessary visits to healthcare providers. Because this is the only tangible control in place, employees often opt to use other reasons instead where documentation is not required. For example, it is much easier to say a child was sick (no documentation required) instead of self (documentation required).

In the words of our employees:

- "Honesty is Penalized" Employees take advantage of loose definitions and a lack of ability of the company to hold accountability. Those that are honest feel they need to jump through hoops to gain approvals. Our employees communicated that some single employees feel they have less options for utilization; some are also frustrated that bereavement leave counts towards their PEL entitlement.

Over 40% of the PEL utilized at our company in 2014 were on Mondays and Fridays.

The current program is not being used for what it's intended – the current program exists and is perceived as 10 personal days off by choice – Employers have a difficult time administering the program fairly.

Personal Emergency Leave (PEL) **COSTLY ADMINISTRATION/ LOST PRODUCTIVITY**

- In 2014, almost 70% of our employees utilized the program; 25% of our employees utilize 5 or more days. There were a over 1400 scheduled shifts missed (11,200 man hours) due to PEL in 2014. This is like running a line short one person for over 5 years.
- Our Human Resources Department likely spends 10% of our time managing the administration of this program and when calling the MOL ESA branch for assistance with approval of unique reasons provided by associates under “*urgent matter*” the government representatives are unsure and unclear themselves and offer little to no support on the program.
- *The ESA currently provides 10 different leaves for a total of 256 weeks of leave in any year.*

Personal Emergency Leave (PEL)

CLOSING COMMENTS

- Better define this type of program, clearer definitions of what is covered, and also how it interacts with potential internal programs (STD, LTD, Bereavement leave etc.)
- Put additional accountability measures in place SUGGESTION—standardized documentation required/PEL form and **add a sign off by applicable family or community member on PEL** (childcare provider, physician, impacted family member) indicating that *they confirm* the reason falls under legislation.
- Amend the ESA to provide consequences for dishonest behaviour.
- Many representatives of trade unions and special interest groups are advocating the PEL provisions of the ESA be amended to provide that the 10 days be paid days. Such an amendment would seriously effect our competitive position.
- Finally, all employees receive nine paid public holidays and a minimum of two weeks of paid vacation each year under the ESA. In our view, further paid days off for PEL is unjustified and would have a serious adverse effect on the manufacturing sector of Ontario.

Thank You for Your Time