MENTAL HEALTH
AND THE WORKPLACE:
IMPORTANT ISSUES FOR HR PROFESSIONALS TO CONSIDER

SUPPLEMENTARY MATERIALS:
4 CASE STUDIES

Karen A. Jensen
Partner

and

John Mastoras
Partner

Norton Rose Canada LLP

Canadian Industrial Relations Association (CIRA)

May 29-31, 2013

The purpose of this document is to provide information as to developments in the law. It does not contain a full analysis of the law nor does it constitute an opinion of Norton Rose Canada LLP or any member of the Firm on the points of law discussed.
Scenario 1

Pierre Michaud, a machinist at a car manufacturing plant, has been so edgy at work lately that his colleagues have started to avoid him. Worse, in the last 4 months Michaud has received 2 written reprimands and a one-day suspension for violating the Company's Respectful Workplace Policy, based on complaints from other employees about his rude and threatening behaviour. Recently, Michaud has been operating the machinery in the plant in a very aggressive and dangerous manner. He received a one week suspension for driving a forklift so dangerously he nearly struck a colleague.

While Michaud has always been a difficult employee, he is becoming increasingly so. His supervisor approached him upon his return to work after the suspension to ask if there was anything wrong, and was told in no uncertain terms by Michaud to mind his own business. The most recent event was an altercation between Michaud and a fellow employee during which Michaud shoved the man back into the wall. Michaud stormed out of the plant and returned after about an hour. Upon his return, he approached his supervisor on the plant floor and declared that he’d received a "sign" that “the end was near”.

Michaud’s supervisor contacted the Union to summon a Union representative and Michaud to his office to discuss discipline and fitness to work concerns. When Michaud and the Union representative arrived at the supervisor’s office, Michaud’s face was dark with anger, with his fists clenched at his sides. The supervisor felt an immediate rush of adrenaline and a desire to flee from his office.
Scenario 2

In November 2012, after missing work on six Mondays in three months, Database Administrator Marnie Brown was summoned to a meeting with her supervisor at an IT services firm. She was asked whether there was anything that would explain her "pattern absenteeism". Brown responded that she had caught a number of colds lately, and was subsequently enrolled in the Company’s Attendance Support Program.

A few weeks later, Brown got a bit tipsy at the Company Christmas party, where she became weepy and depressed after her declarations of love for a co-worker were rebuffed. Brown got into a minor car accident on the way home, was charged with drunk driving and called in sick for the next two days. She subsequently met with the Attendance Support worker who warned her that a failure to improve her attendance could result in discipline up to and including termination.

Against all predictions, Brown showed up for work as scheduled at a client’s store on January 1, 2013 – with bloodshot eyes and a powerful smell of alcohol. After the client complained, the employer decided to send Brown for a drug and alcohol test, as provided for under the Company’s Addiction Support and Substance Abuse Policy. Although Brown passed the drug test, she flatly refused to attend the alcohol testing and addiction screening appointment, insisting that she "is not an alcoholic". She was given a written reprimand for insubordination.

Several weeks later, another client complained when Brown showed up for an afternoon appointment, smelling of alcohol and slurring her words. The employer immediately terminated her employment.
Scenario 3

Gina Patel, a call centre employee, held a very demanding position as team leader of a large team of employees who handled the most difficult calls in the centre – clients who were angry or frustrated with the service they had received. Gina seemed to thrive in the position. She said she enjoyed handling difficult clients and enjoyed being in control of her co-workers. However, seemingly without warning one day, she booked off sick and subsequently provided a medical note indicating that she would be off on short term disability leave for several months.

When she was about to transition to long term disability, her manager received a call from Gina indicating that she wanted to return to work immediately as the long term disability benefits were not enough to meet her financial needs. Gina’s manager was extremely concerned that Gina was not well enough to return since the Insurance Company had indicated she would be on long term disability leave indefinitely. Gina subsequently provided a medical note indicating that she was fit to return to work immediately. However the physician stipulated that Gina had functional limitations arising from her disability. They were that she could not work on the telephone and could not use a scripted message for her communications with the public.

When Gina returned to work she openly shared with all of her co-workers and her manager that she had been diagnosed with an anxiety disorder and a narcissistic personality disorder. At a call centre there are not many jobs that do not require use of a telephone and either speaking with the use of script or coaching people to use a scripted message on the phone. Gina has demanded that she be given a managerial position. She stated that she will have no problem coaching to the scripted message, provided she does not have to use the phone herself. Gina’s co-workers and manager report that her behaviour and attitude upon her return to work is decidedly difficult. She is more demanding and controlling than ever before and is very agitated. She takes frequent smoke breaks, is often late or absent from work. She has been relieved from the duty to use the phone, leaving very little productive work for her to do other than to closely supervise members of her team. The team members are beginning to get very hostile with the close but erratic supervision they are receiving from her.
Scenario 4

Zack Thimble is a 27 year old social worker with the City of Hamilton. He does research and policy development on the Housing and Homelessness Action Plan for the City. He is responsible for producing reports and policy documents on a regular basis, for developing research proposals, and for briefing senior managers on emerging issues in his research projects. Right from the start, it was apparent to Zack’s manager that he was an extremely bright young man who demanded a great deal from himself. He kept his office in meticulous order, and seemed to spend an inordinate amount of time organizing his filing system. He had a detailed list of the documents in each file including the number of pages of each document. He could often be seen counting the pages of his documents. Zack regularly worked weekends and evenings and seemed always to be stressed about his deadlines.

Lately, Zack has not been returning calls or emails. He has taken to working from home where he says it is quieter and he’s able to concentrate on his work. He was to have delivered a research report and briefing note 6 months ago, but has asked for numerous extensions of time to complete the documents. The reasons he provides for his requests are that he needs more time to examine other issues that have emerged in the research or that he was not well, and couldn’t complete the work as a result. Finally, Zack’s manager insisted on seeing what he had completed to date. The manager was shocked to see a poorly organized, but lengthy document with a number of interesting points that had not been thoroughly analyzed. It was evident that Zack was floundering.

Zack’s manager has set up a series of meetings to discuss the completion of the report and has set a firm deadline of one month by which the report must be completed. At the start of the first progress meeting, Zack presented a medical note indicating that he suffers from an obsessive compulsive disorder and, as a result, has difficulty meeting deadlines. The doctor has stated that to accommodate Zack he must be given flexible deadlines, and a low stress work environment.