

DUE DILIGENCE AND DOCUMENTATION

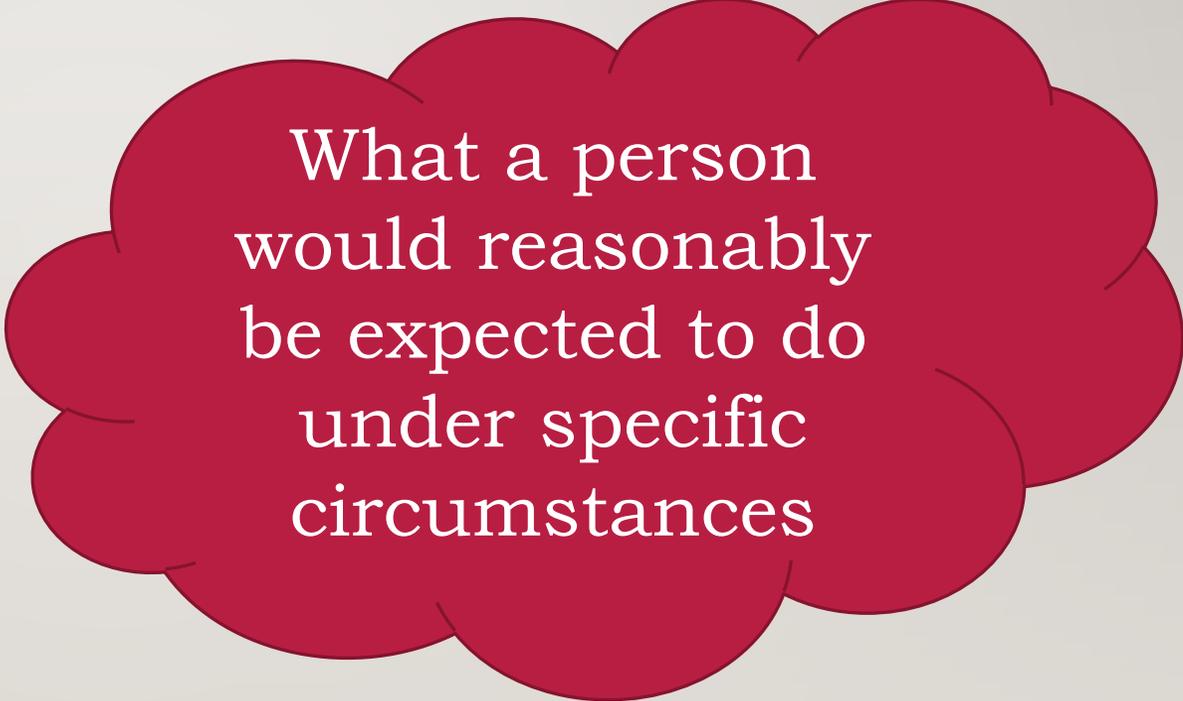
“IN HUMAN RESOURCES, IF IT WASN'T DOCUMENTED, IT DIDN'T HAPPEN”.



DUE DILIGENCE

Due diligence is the level of:

- Judgement
- Care
- Prudence
- Determination
- Activity



What a person
would reasonably
be expected to do
under specific
circumstances

DUE DILIGENCE

- Applied to occupational health and safety, due diligence means that employers shall take all reasonable precautions, under the particular circumstances, to prevent injuries or incidents in the workplace.
- This duty also applies to situations that are not addressed elsewhere in the occupational health and safety legislation.
- Reasonable precautions are also referred to as reasonable care. It refers to the care, caution, or action a reasonable person is expected to take under similar circumstances.

“REASONABLY PRACTICABLE”

- Reasonably practicable has been described as taking precautions that are not only possible, but that are also suitable or rational, given the particular situation.
- Determining what should be done is usually done on a case by case basis.

DUE DILIGENCE

"Due diligence" is important as a legal defense for a person charged under occupational health and safety legislation. If charged, a defendant may be found not guilty if he or she can prove that due diligence was exercised.

DUE DILIGENCE

- In other words, the defendant must be able to prove that all precautions, reasonable under the circumstances, were taken to protect the health and safety of workers.
- Due diligence is demonstrated by your actions before an event occurs, not after.

WHAT DOCUMENTS WOULD MOL ASK FOR AFTER A CRITICAL INJURY?

- Preventative maintenance records for equipment
- Training Records of the injured worker (competency)
- Pre-Use Inspection Records (3 to 6 months worth at minimum)
- Write Ups - when was the last time you wrote someone up for safety?

DOCUMENTATION –WHY?

Why You Should Document Employee Performance

- Documentation provides evidence that performance issues were discussed with the employee in a timely and concise fashion.
- Documentation offers a history of the employee's improvement or failure to improve performance over time. It is chronological and a precise description of the employee's actions, the manager's actions, and events as they occur.

DOCUMENTATION –WHY?

- Documentation provides evidence that supports management decisions to take unfavorable action such as discipline or termination with an employee or favourable actions such as promotions/pay increases.

DOCUMENTATION –WHY?

- In the event of a lawsuit, complete and thorough documentation protects an employer's interests as well as the supervisors.
- The documentation can support management's actions in terminating an unsuccessful employee.
- It also can prove that the employee was terminated for reasons that are legal as opposed to others such as illegal discrimination.

DOCUMENTATION

Properly documenting issues and retaining records.

- Make records at the time of, or shortly following, an incident. Don't wait weeks or months to create your documentation.
- Focus on the facts, not generalizations or subjective comments.

DOCUMENTATION

- State performance expectations clearly.
- Avoid potentially discriminatory statements.
- Don't exaggerate or embellish.
- Site specific company policies, as applicable.
- Set specific deadlines for follow-up.

A PICTURE IS WORTH A
THOUSAND WORDS, OR IS IT?
PHOTOS WITHOUT WORDS MAY
BE (ALMOST) MEANINGLESS



Therefore, think before you write!



HOW TO DOCUMENT

- Documentation should be written during or immediately following the meeting or conversation with the employee.
- One of the worst mistakes many supervisors make is to believe that they can reconstruct an employee counseling history as needed.

HOW TO DOCUMENT

- You need your documentation to appear professional, neat, and organized. Write documentation as if you are talking about the history to a third party.

PREPARING EFFECTIVE DOCUMENTATION

Clearly state what you know—”FOF”

(Focus on the Facts)

- ✓ Who was involved (witnesses)?
- ✓ What happened?
- ✓ Where did it happen?
- ✓ When did it happen?



HOW TO DOCUMENT

- Write documentation that is factual, fair, legal, objective, complete, and consistent.
- Avoid opinions.
- Avoid also trying to interpret the employee's behavior.



PREPARING EFFECTIVE DOCUMENTATION

Don't draw sweeping conclusions

- "I've had enough of her drama!"

- "His bad attitude has a negative effect on everyone".

- Instead, explain the facts to support those conclusions.

- "She slammed the door to my office as she left"

- "Two office assistants have expressed concern about working with him".

PREPARING EFFECTIVE DOCUMENTATION

- Identify the problem
 - Violation of Rule or Policy
 - Performance Standard not being met
- Identify how the employee can resolve the problem.
- Identify actions that you have and will take if the problem is not resolved.
- Reiterate performance expectations
- Date it, sign it and follow up.

HOW TO DOCUMENT

- In documentation, what is needed is an accurate record of the conversation. Stick with the facts and write down just what you said and what the employee said.
- Finally, document any agreements, commitments, timelines, improvements needed, check-in points, and other details that might slip from memory.

THE SECRET DIARY

If its important enough to discuss,
its important enough to write down.



KEY AREAS NEEDING DOCUMENTATION

- Violation of Safety Rules
- Attendance Issues
- Harassment and Discrimination
- All verbal agreements made with employee.

WHERE TO DOCUMENT & STORE

- Since documentation about employees is confidential and private to the employee, you need to take care that any documentation remains confidential to the supervisor and HR,
- All formal documentation discussed with an employee is stored by HR in locked files and on a secure computer server.
- A supervisors handwritten documentation is best kept in a locked drawer, or secure area or hand it into HR to archive at end of the season.

COVID-19-CLOSE CONTACT DOCUMENTATION

- **New for 2021** all supervisors MUST document their close contacts at the end of each day.
- When you leave a store, write down who you met with, what areas you were in.
- This will help in the event of a positive Covid19 case
- You need to re-trace your steps.

