

**PIPA CASE SUMMARY P2006-CS-009*****Salon collects excessive personal information from an employee.*****Summary**

The Complainant alleged that her former employer, Mainstreet Hair 1992 Ltd. (operating as “Kaya Loma Salon & Spa”), required employees who miss work to disclose at staff meetings the reason for their absence when they return to work. If an employee was sick, this entailed disclosing the nature of the illness. The Complainant indicated that staff members then had to decide by majority whether the reason for the absence was acceptable.

Kaya Loma Salon explained that the Organization experienced difficulty with employees failing to show up for work, or giving very short notice of an absence without cancelling appointments with their clients. The Organization stated that this was eroding staff morale and customer loyalty and maintained that staff decided collectively to be accountable to each other. All were in favour of holding meetings after an absence in which coworkers would describe the impact of the absence on them for the benefit of the person who was away. Kaya Loma asserted that employees did not have to disclose the nature of their illness or details of their absence. The Organization contended that it was sufficient for employees to simply state that they were sick, had an emergency or an appointment. Kaya Loma Salon also disputed that there was voting or a requirement to defend an absence.

Jurisdiction

PIPA applies to provincially-regulated private sector organizations operating in Alberta, including Kaya Loma. The Commissioner has jurisdiction in this case because Mainstreet Hair 1992 Ltd. is “an organization”, as defined in section 1(i) of the Act. Section 36 of the Act empowers the Commissioner to conduct investigations to ensure compliance with any provision of PIPA and make recommendations to organizations regarding their obligations.

Analysis & Findings

PIPA requires that organizations only collect personal information from individuals for purposes that are reasonable and only to the extent necessary to meet that purpose [section 11]. In decisions by the Federal Privacy Commissioner, it has been established that an employer is generally not entitled to collect details of employee illness and that a doctor’s note verifying the need for the absence, if necessary, should suffice (PIPEDA Case Summary 233, 257, and 226).

The Complainant presented two witnesses that were interviewed by the investigator. The first witness fully corroborated the Complainant’s description and stated that she recalled receiving a piece of paper that had typed on it “Excused: Yes No”. She stated that employees were asked to circle one to vote on whether a staff member’s absence was excusable after the explanation. She recalled employees being required to give details of their absence, including the nature of their illness. This witness argued that at no time did staff collectively decide to hold these meetings. The second witness confirmed that staff did decide that they wanted to be held accountable to one another for their absences, but stated that at no time were employees advised that explanations for absences had to be announced formally at meetings. She confirmed that staff voted at the meetings, but could not recall how much detail the employee who was absent had to provide and whether disclosure of the nature of illness was necessarily required.

Recommendation

The investigator found that the Organization contravened section 11 of PIPA.

Kaya Loma Salon indicated that it no longer holds accountability meetings since absenteeism has ceased to be an issue. The investigator reiterated to the Organization that it would not be reasonable, should it ever resume these meetings, for staff to be required to disclose the nature of their illnesses. The investigator also provided the Organization with several resources for assistance in understanding its privacy responsibilities. Kaya Loma Salon is developing a privacy policy in compliance with section 6. The Complainant was satisfied with the investigator’s intervention.