

The T.A.P.E Tip Sheet

Human Resource Support from The American Professional Employer©

Volume 1, Issue 2, January 2002

Is Your Company Complying with Employee Privacy Laws Correctly?



By Human Resources

EMPLOYEE LOCKERS – RIGHT TO SEARCH?

An employee goes to their company locker on a break and finds the padlock has been clipped and broken. Inside the locker all of the items were in disarray. Obviously, someone had broken into the locker. Complaining to the supervisor, it was discovered that the supervisor had gone through all of the employee lockers, searching for missing property.

The employee was upset, even though the missing property had not been found in the locker. "You had no right to go through my locker!" the employee complained. "That was my personal lock that you opened."

"I've got a right to go into any locker at any time," the supervisor stated. "I was looking for stolen property. If you had used a company lock like you were supposed to, I wouldn't have had to break your lock."

"You knew I put that lock on my locker months ago and you said nothing about it," the employee countered.

"I am not going to argue with you," the supervisor said. "That locker belongs to the company, and I have every right to go through it at anytime."

WHO'S RIGHT, THE SUPERVISOR OR THE EMPLOYEE?

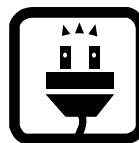
The jury awarded the employee \$8,000 in compensatory damages and fined the company an additional \$100,000.

Once an employee is allowed their own lock on a company locker, the company gives up the right to search the locker at anytime. To do so becomes an invasion of privacy.

Companies have to have written policies concerning lockers and desks. Be sure of the company's policy regarding employee privacy before searching through papers or other materials of a personal nature. Our Co-employer handbooks cover this issue in detail, but it is important that Co-employers abide by the rules set forth within the handbooks also.

We can always rewrite this section specific to your company, but employers must make 1 of 2 choices. They can either: 1) let employees provide their own locks and adhere to their privacy, searching lockers only when given employee permission or with a duly authorized search warrant; or 2) they can provide locks, have employees sign waivers that authorize employers to search at anytime, but they then must have employees sign waivers that relieve the employer from any liability due to theft from the locker. **Before you conduct a search of an employee's possessions, please call Human Resources, at 330-668-1845 so that we can correctly guide you through the process.**

Is Your Company Insulated from Electrical Accidents?



By
Gregory Newsome
Risk & Safety
Manager



It is true that "High Voltage kills." Most of us can recall seeing signs on equipment or installations that say, "DANGER: HIGH VOLTAGE, KEEP OUT." There is no doubt about it, these signs mean what they say. However, many people have falsely concluded that if high voltage kills, low voltage cannot or does not kill.

The chart below will show the affects of 60Hz alternating current (AC) on the human body. Keep in mind that a 100 watt 120v light bulb will use 750mA (MilliAmps).

Current Range	Physiological Phenomena	Effect on Human Body
<1 mA	None	Hardly Noticeable
1 mA	Perception Threshold	Hardly Noticeable
10 mA	No-Let-Go Threshold	Cannot Release Hand Grip
30 mA	Respiratory Failure Threshold	Stoppage of Breathing
75 mA	Fibrillation Threshold (0.5%)*	Discoordinated Heart Action
250 mA	Fibrillation Threshold (99.5%)**	Discoordinated Heart Action
4 Amps	Heart Paralysis Threshold	Heart Stops During Current Passage
5 – 20 Amps	Tissue Burning	
>20 Amps	Tissue and Organ Damage	

- *This can occur in 0.5% of the population
- **This can occur in 99.5% of the population

The threshold level for ventricular fibrillation is 75 mA and is the most fatal aspect of an electrical shock. Keep in mind that the heart will not regain proper functioning even after the current ceases. Consequently, it is fatal unless CPR is applied. At 4 Amps the heart stops rather than fibrillation. This paralysis of the heart sounds fatal, and of course it often is, but the good part of this condition is that the heart will start synchronism by itself when the current stops. This phenomenon is the basis of a device known as a defibrillator. They are used to stop ventricular fibrillation and are carried on rescue vehicles.

Our Risk & Safety Department is trained in Electric Hazard Recognition and during normal walk-through locates possible electric shock hazards along with other OSHA violations. What is thought of as normal, working conditions in a plant or office setting could, in fact, be a very dangerous situation. If your company has recently added or will add any capital or office equipment, call Gregory Newsome at 330-668-1845 to arrange another immediate inspection.



WHY DOCUMENTATION AND ARCHIVING PAYROLL REGISTERS CAN BE CRUCIAL TO YOUR BOTTOM LINE

By Patty Bork
Payroll Manager

Akron loses \$1.7 million records case

Two former secretaries win ruling against city for trashing public data.



-Akron Beacon Journal
Dec 11, 2001

By federal law, companies must keep payroll records for 7 years. The American Group archives and backs up all its client companies' payroll records permanently. We take this obligation at a cost, and we take it very seriously.

If payroll records are accidentally lost or destroyed, it is up to the company to prove that malicious intent has not occurred. Our clients can and do call us when they need these records, and we quickly provide payroll register copies along with any explanation, clarification or guidance that they may need if an issue arises involving an employee or government agency.

This case clearly demonstrates how quickly and costly things can get when record keeping is taken for granted or mishandled combined with an unlawful pay practice. **"The jury awarded Elizabeth Kish, 43 and a mother of 3, \$480,000 or \$1,000 for each record the city lost. The Jury also gave Kish \$480,000 in punitive damages. She was also awarded \$500 in compensatory damages."**

The other plaintiff, **"Victoria Elder, 35, was awarded \$380,000 for record destruction (\$1,000 for every record lost) and another \$380,000 in punitive damages. She, too, was given \$500 in compensatory damages."**

"The sad part is, this could have been settled long ago had the city originally paid the overtime these women deserved," said Jennifer Corso, the ladies' attorney. "The women first complained about a comp time policy. Instead of being paid money for overtime, the women were told to take comp time—and at straight time, not time and a half."

The concerning issue and key is that Kish was originally seeking only \$493 in back due overtime pay. And Elder was also only seeking \$414 in back overtime pay--originally. However, once they discovered that the records were lost or destroyed and brought this to the attention of a lawyer, the stage was set for disaster for their employer.

Obviously, the employer will appeal this, the damages will be somewhat reduced, but the legal costs themselves will be in the tens of thousands of dollars.

Our experienced Payroll and PEA (Human Resource) Department would have intervened early in the grievance process to mediate and provide expertise for managing company comp time policies. Most important, the payroll records of all our clients are archived and accessible, which would have stopped the legal suit before it began, as well as negated the heavy fines and damages levied in this case.

ANTICIPATING THE EFFECTS OF THE RECESSION ON EMPLOYEE MANAGEMENT



With the economy sinking, our mission to help you attract and retain only the best employees is more important than ever. Yes, these are very difficult times with health care costs soaring, Workers' Compensation costs expected to increase significantly (as the rebate program in Ohio is expected to be curtailed due to budget restraints), and revenues to pay for all this shrinks as the economy stalls.

Yet, this dynamic situation offers huge opportunities also. Those companies that deal with these challenges successfully, retain only their best, most productive people, will come out even stronger as the economy bottoms. Moreover, these leaner, meaner organizations will be able to add additional qualified personnel (discarded from weaker companies) as the economy rebounds in the second half of 2002.

To better aid you in your identification, evaluation, and fine-tuning of labor needs, **The American Group will shortly (by Feb 15th 2001) be delivering new Employer Manuals that you can use to better manage your employment needs through legal management compliance.** These manuals will help you and us create job descriptions, evaluate employee performance, demonstrate how to legally and cost effectively recruit and select only the best candidates, and how to provide proper documentation to terminate bad workers. Additionally, these manuals will help us interface with you to legally comply with all record keeping requirements, properly handle all accident reports, develop better safety programs, and prevent the government from intruding into your workplace.

Additionally, this year we have begun bringing payroll in house and are administering it with our state-of-the-art, web-accessed payroll program. This new system will allow us to produce for you job costing reports, enabling you to better measure labor performance. Moreover, through our system, you will now have immediate access to many human resource records including pay rates, hours worked, employment anniversary and review dates, and vacation and sick day utilization. All of these activities and projects were put in place in anticipation of our clients' needs. We know that we must work extra hard to help you weather this economic storm. This is why all these programs and products are going into place. We have to keep your costs down or at least keep them from rising as fast as your competition. **We're ready to better support You!!!**

Photo by: www.terrorist-attack-memorial.com/18.

**Please Remember: the savings and value we provide our clients is based on large group buying power. Help keep your benefits and administration costs down—refer other business owners. Thanks!*



Proud to be American

The American Group

127 N. Cleveland-Massillon Rd.
Akron, Ohio 44333

Phone: (330) 668-1845
(800) 668-7720

Fax: (330) 665-5441

Tape@theamericangroup.net