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What is the future of working from home in Canada?



RunX CEO Ankur Dahiya, top center, takes part in a video meeting along with employees Nitin Aggarwal, left, and JD Palomino, lower right, at a rented office in San Francisco, Friday, Aug. 27, 2021. (AP Photo/Eric Risberg)



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After Elon Musk unceremoniously laid off roughly 50 per cent of Twitter's workforce, he announced this week that he

plans to scrap the company's 'work from anywhere policy' and mandate a full-time return to offices for all of its employees.

It raises an important question about the future of remote work in North America on the heels of an impending recession and a historic labour shortage, which experts say could ideally put employees in the driver's seat for negotiating their working conditions.

"Employers are absolutely risking a floodgate of wrongful dismissal claims for severance when they make fundamental changes to (policy) for their employees," Mackenzie Irwin, a Toronto-based employment lawyer, told CTVNews.ca on Friday.

According to Irwin, if a job is advertised as a remote position and if remote work is embedded in an employee's contract or as a company policy, then an argument can be made that work-from-home counts as an agreed-upon term of employment.

In those cases, employees fired for not returning to offices or who quit due to the change in policy can sue for [constructive dismissal](#), she said, which refers to when an employer doesn't abide by their original agreement with an employee.

This could lead to a stronger exit or severance package, or in some rare cases, renewed employment.

But, for the workers without a written stipulation and who worked remotely due to unprecedented circumstances such as COVID-19, there is no "legislative framework" in place to protect those who refuse to return to the office, Sundeep Gokhale, a Toronto-based labour lawyer told CTVNews.ca on Friday.

"That said, we're starting to see a very strong movement from employees making this determined condition of employment when they accept new work," he said.

"I think we're all seeing it as one of the first questions asked by employees (in a job interview), such as, 'Is it a flexible work environment' or 'How often do I have to come into the

office?"

Remote work's popularity in Canada has surged, with many ready to quit if forced back to the office full-time, according to an October [online survey](#) by Hardbacon, a financial technology company.

It revealed that more than 80 per cent of Canadian remote workers would quit their job and look for new ones if their employer asked them to return to the office five days a week.

Another [study](#) by the Environics Institute for Survey Research on workplace preferences found that an increasing proportion of Canadians have grown acclimated to working remotely since the COVID-19 pandemic began, and [want to keep it an indefinite option](#).

"I think it would have been reasonable to think that, after two-and-a-half years, people would have had enough, and want to go back. And we're just not seeing that," Andrew Parkin, one of the report's lead authors, told CTVNews.ca in September.

But many companies in Canada have started putting their foot down and [are renewing efforts to get employees back into office buildings](#).

Rather than voluntary return-to-office guidelines, employers are mandating office attendance through corporate policies. Some Bay Street companies and law firms appeared to be leading the charge, issuing memos mandating a set number of days a week in the office in September.

Law firm Osler, Hoskin & Harcourt LLP said in a statement that on Sept. 6 its offices would move to a hybrid working model where most employees will work three to four days a week in the office, subject to operational requirements and local public health guidance

The Royal Bank of Canada (RBC) [is encouraging staff to visit the office more frequently](#), which could be an indication that Canadian big banks will follow their American counterparts and reduce remote work.

Rafael Ruffolo, a spokesman for RBC, told BNN Bloomberg via email that most office jobs under hybrid arrangements would require two to three days of in-person work each week.

"It won't just happen organically," RBC's president and chief executive Dave McKay said in a [LinkedIn post](#) in September. "We're asking teams across the bank to start coming together in person more often to work and collaborate."

"There's an energy and spontaneity that comes from connecting in-person that I don't believe technology can replicate."

While conflicted about the fate of working from home, experts believe that unions may be able to offer support to negotiate better deals for workers.

"Unions can definitely negotiate remote work to be included in employees' collective agreements," Valerio De Stefano, a York University professor and Canada Research Chair of the Innovation, Law and Society at Osgoode Hall Law School in Toronto, told CTVNews.ca on Friday.

"Even if remote work is not in collective agreements, but something that has been implemented by an employer, then a union can claim that the employer cannot revoke the policy unless they have demonstrable business grounds to do so."

Employers also can't roll back work-from-home policies without a reasonable amount of notice given to workers,

Irvin says, arguing that often even a week's notice wouldn't be considered reasonable after two years of remote work.

While there is no hard and fast rule or formula, employers following best practices should transition workers to the office slowly with plenty of notice and start with a hybrid model, she said.

Parkin cautions that employers with rigid approaches may find a harder time retaining staff as opposed to those who are more flexible.

“While I can’t say if (permanent remote work) is sustainable or not, the way I’d put it is that it’s unavoidable,” he said.

With files from The Canadian Press and CTV News

Are you being asked to return to the office but would prefer to continue working from home? Share your story by emailing us at dotcom@bellmedia.ca with your name and location. Your comments may be used in a CTVNews.ca story.
