Redefining Statutory Holidays





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Whether we personally align with and/or understand the history behind statutory holidays, most of us enjoy and value having long weekends and the occasional mid-week day off. Legislated federally and provincially, statutory holidays have a nationalist, cultural and religious basis which may or may not hold significance for every individual or group. While some certainly do honour the specific basis of holidays (all or in part), others simply appreciate the extra time off. Yet others would prefer a different day off to honour someone or something that's meaningful to them as individuals or groups.

While employers are required by law to provide statutory holidays and/or pay (except in a few exempt cases), the average employer likely doesn't view them as a clear example of colonization. Colonization in Canada occurred when settlers migrated to North America, took control, imposed their own cultural values, religions, laws, and policies, and banned those of the Indigenous Peoples whose home and land it was – and still is. As lawyer Jeremy Hessing-Lewis stated: "One of the enduring legacies of colonization is the forced periodic reverence/celebration of colonizers." For example, many Canadians celebrate Canada Day as the "birth" of Canada, and many will say that Canada turns 154 this July. In fact, Indigenous People have lived on the land we call Canada for up to 12,000 years and celebrating a 150+ year milestone doesn't recognize this significant history, nor the impact of colonialism.

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That said, statutory holidays provide an opportunity for decolonization – to replace western interpretations of history with an Indigenous and diversely cultural/sociocultural perspective. As Animikii Indigenous Technology is a testament to, by changing how statutory holidays are managed, it is possible to create space to support Indigenous and other cultural worldviews and celebrate diversity. Animikii has recently introduced an innovative practice which empowers employees to choose how to use statutory holidays. Specifically, they may choose to take them as legislatively scheduled or on another day that allows them to honour what matters to each of them. When the news of this change was announced to their team, the response was resoundingly positive. Some of the comments included: "This is beautiful." "This is incredible." "I'm feeling very respected and appreciated."

Rather than aligning with a history that isn't meaningful, such a practice allows employees to take a day of cultural or personal significance. This might be on Orange Shirt Day, or during Indigenous Peoples Month, traditional ceremonies, Pride Week, the Diversity Festival, Lunar New Year, Diwali, Ramadan, and so forth.

Whether your organization is a First Nation Administration, in support of Indigenous and culturally diverse people and services, and/or you want to provide a more diverse and inclusive workplace, changing the way your organization views and manages statutory holidays is one significant way to do so. It is, however, important to do so intentionally and in line with associated legislation. More specifically:

- As with all major practice changes, start with the heart of your organizational culture and be sure it aligns; be clear on the why and the how
- Develop a policy and procedure with clear guidelines on how employees may go about substituting days and associated parameters
- Ensure you follow the Employment Standards Act (ESA) for your province or the Canada Labour Code (CLC) if you're federally regulated. The ESA BC and CLC allow employers to substitute stat holidays for one or more employees if both the employer and employee agree to the substitution in writing
- Where a stat is substituted for another day, it must be treated in the same way as a regular stat (e.g., if an employee substitutes Canada Day for a day off on July 21st, then July 21st essentially becomes the stat; if the employee is then required to work on that day, they would need to be compensated in the same way as if they were required to work on July 1st)
- As records of substitutions must be kept in line with ESA or CLC, be sure to put in place a clear request, approval and tracking process (e.g., a substitution form that has to be completed by a specific time each year); this is also important in the unlikely event that an employee claims statutory holiday pay for having worked on the originally legislated stat
- Be sure your leave tracking system (if you have an automated one) is updated accordingly

As you discuss and make changes in support of a more diverse, equitable, and inclusive culture, like Animikii has done, we encourage you to think bigger, broader, and at a more fundamental level. What are the systemic foundations and practices that you take for granted because they've always been that way, or you were told to do it that way? How can you lead the way in support of decolonization, diversity, and inclusiveness?

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