SHH! YOU ARE BEING LISTENED TO! CLANDESTINE RECORDINGS OF WORKPLACE CONVERSATIONS IN QUEBEC (CANADA)*

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ABSTRACT

Is an employee permitted to record a conversation without the employer's knowledge? This paper will first outline the relevant case law on the admissibility of clandestine recordings obtained by the employer without the employee's knowledge. It will then be followed by an examination of a recent case to determine whether the previously articulated principles apply *mutatis mutandis*. Finally, it will provide a critical analysis of the broader implications of such a solution in employment contexts.

KEYWORDS: Recording, Privacy, Duty of loyalty, Admissibility of evidence, Unlawful evidence, Labour & Employment law.

RÉSUMÉ

La personne salariée peut-elle enregistrer une conversation à l'insu de son employeur ? Après avoir exposé l'état de la jurisprudence sur l'admissibilité d'un enregistrement obtenu par l'employeur à l'insu de cette dernière, nous répondrons à la question en examinant, à la lumière d'une affaire récente, si les principes exposés plus tôt sont applicables *mutatis mutandis* ; puis un regard critique sera porté sur les effets d'une telle solution sur le monde du travail.

MOTS-CLÉS : Enregistrement, vie privée, obligation de loyauté, recevabilité de la preuve, preuve illicite, droit du travail.

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