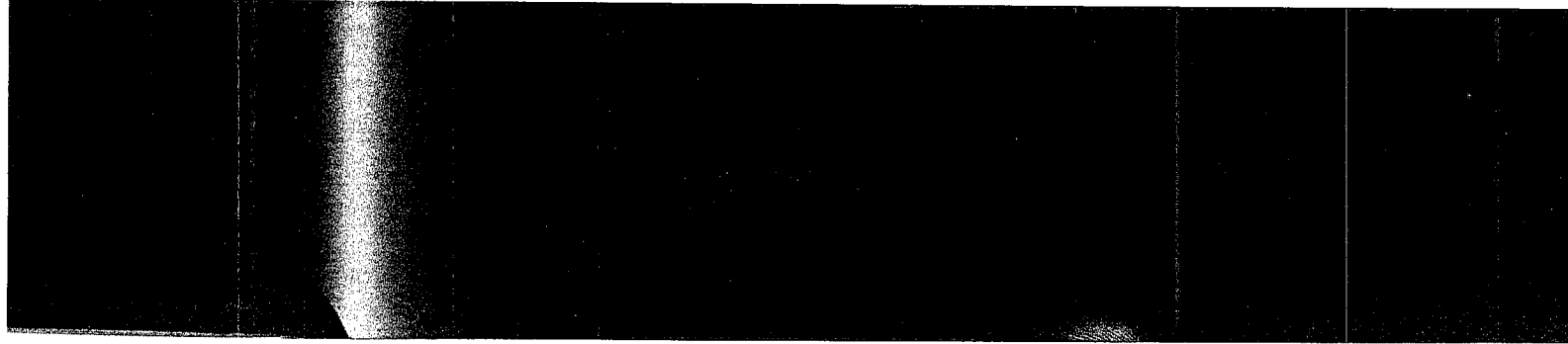




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90 CASE

Surfing the Internet on Company Time

Helen Barnett was shocked by what she was seeing on the computer screen at the desk of James Erskine. On the screen was a picture depicting a sexual act! The picture appeared on a porn Web site that Erskine had evidently visited. Helen supervises 15 customer service representatives for National Insurance, a company specializing in home insurance. The job of a customer service representative is to assist clients with claims, insurance quotes, and other queries. Each customer service representative works in a cubicle furnished with a computer, a desk, and a phone headset. Only Barnett has a personal office. National Insurance prides itself in its efforts to make greater use of electronic technology in servicing its clients. Quotes for insurance and even samples of policies are often sent to clients via the computer. Most of the information representatives need to answer customer queries is available at their fingertips.

Erskine had been employed with National Insurance for the last six months. His 90-day performance review had been satisfactory. Lorraine Smalls, a co-worker who sat in a cubicle close to Erskine, had inadvertently discovered the pornographic picture. When her computer malfunctioned, Smalls had gone to Erskine's cubicle to quickly retrieve some data to respond to a customer's query. It was not unusual for representatives to use another staff member's computer. Erskine was out to lunch and his computer screen was in standby mode. When Smalls hit the enter key, the picture appeared and its graphic nature disturbed her greatly. She immediately called Barnett over to the workstation. When Barnett checked Erskine's browser, it seemed that he had visited the Web site more than a dozen times that morning. She felt that she needed to confront him about using company time in such an unproductive manner.

When Erskine returned from lunch, Barnett told him about her discovery. He was irate with her. Erskine told her that he had visited the site on his break time, not on company time. Furthermore, he felt that it was an invasion of his privacy that both a co-worker and Barnett had gained access to his computer. Barnett told Erskine she had no recourse but to report his behavior to the human resource manager. After he left Barnett's office, Erskine himself went to the human resource manager, Dale Gibbons. Erskine believed that the supervisor's actions violated his constitutional rights to privacy. Gibbons told him, "Even though the company does not have a written policy prohibiting visiting Web sites, all employees are expected to use their computers for work-related purposes. Unnecessary surfing ties up our ISDN line capacity and could impact service delivery. In addition, you exposed two of your fellow employees to pornography." He went on to say, "National Insurance operates on a trust basis in all its relationships with employees."

Two days later, Erskine was suspended for using the company's computer system for nonproductive, personal purposes. When he received his suspension notification, Erskine told Gibbons that he would sue National Insurance for violating his right to privacy. He also told Gibbons that he knew of many other employees who surfed the Internet and used the company's e-mail for personal purposes.

QUESTIONS

1. Did Helen Barnett's actions invade James Erskine's right to privacy?
2. Was National Insurance justified in suspending Erskine?
3. What should be the key elements of an employee computer and Web use policy?