

Ontario Employment Law During the Hiring Process

PReP Course 11 - Lesson 3

The Ontario Human Rights Code applies from the time that you see a job ad, all the way through to termination, if that happens. It's important that every job ad be specific about what the actual requirements and competencies are. You need to match your credentials, your skills, and use every example that you can from your previous work to match with what the requirements are here. The job ad tells you a lot. It'll tell you what the requirements are, and you have to have proof that you can meet those requirements. There will be other parts of the job ad that may not be required but would be nice if you had those particular skills.

Let's use the example of English. Someone who is going to be working in a field with people all day, and explaining medical terminology, listening to symptoms, and talking to people about really sensitive and important topics needs to have a superior command of the English language, I think you would all agree. But an employer has to be able to test that in order to say "Your English isn't good enough." It would need to be tested in an appropriate way to make sure that you are able to meet that competency. Some people believe that that's really more a 'Canadian experience' requirement, but it isn't. English is English. You have to be able to speak English well enough to meet the requirement for that particular job.

An important part of the hiring process is your resume. It's important that you look at your resume - have someone else read it - and make sure that it is exact. If there is anything there that isn't quite correct, and if it's about a fact that is actually a real requirement for your job, it could be a problem, because if you put something in your resume that is not precise, you're hired, and you start working, and your employer finds out that in fact something you've written on your resume is not correct, that may be grounds for termination. So it's an easy problem to solve: make sure that your resume is absolutely correct in every description of your credentials, and your work experience is exact.

The Ontario Human Rights Code also applies to interview questions. So if you're being interviewed you have to be listening carefully for what the real question is that's being asked. Employers cannot make a decision to refuse to hire you because you're married, or because you have children. But they can say there's a competency, or a requirement: you have to be able to work at night. You have to be able to work on weekends. So what is the proper question in the interview? The wrong question is: "Are you married? Do you

have children?" The correct question is: "Are you able to work at night? Are you able to work on the weekends?" The discrimination that occurs during interviews is often unintended by employers. They really want to know "Can you work evenings or weekends?", but they'll "Are you married" and "Do you have children". So the dilemma is: how do you answer that question? And you answer the question by explaining that you are able to meet the requirements of the job, which are working at night and on the weekend, for example.

Most employers will offer you an employment contract that sets out the terms of the employment relationship. It's important that you actually read it and understand it because once you sign that contract, you are agreeing to all of the terms that are in that contract. [It's] often a good idea to get some legal advice if you're not sure about what something means, but be careful; when you're signing a contract you are agreeing, and you will be bound by that contract and it can be enforced against you. So make sure that you are familiar with the terms; make sure that you agree with them.

In some cases an employer may ask you to sign a contract when you are hired that sets out some obligations for when you don't work there anymore. And an example of that would be where you might sign a contract today that says when you leave this job two years from now you will not work for a competitor, or not work for someone in the same field for a certain period of time, or within a certain geographic area. If you sign a contract that has what's called a restrictive covenant or non-competition clause, be careful, and make sure that it's a clause that you remember and that you're aware of when you leave this job because it may effect where you can work next.

Some workplaces in Ontario may be unionized, and what that means is that instead of negotiating with an employer for individual salary and vacation benefits, all of the employees are formed into a collective bargaining unit and are represented by a union which does the negotiation for all of them with the employer. If you work in a unionized workplace, you'll know that; you'll be told, you will pay union dues (they will be deducted from your pay) and all of the rules about your work will be governed by a contract called a collective bargaining agreement, and that agreement, that collective agreement, is something that you'll be given and you should be aware of. Those rules are different, and almost every aspect of employment will be covered by that collective agreement - read it.