

Ontario Employment Law in the Workplace

WIN Course 6, Part 2 - Lesson 4

Once an employee is hired, there are some other pieces of legislation that come into play. So in addition to the Ontario Human Rights Code, which still applies, so you can't promote or refuse to promote an employee because of their race, place of origin, or any of the other issues that are addressed in the Code, we also have the Occupational Health and Safety Act. That applies to keeping a safe workplace. Primarily that means worrying about toxic chemicals, or anything else that would be considered a hazardous material, safe equipment; and so that Act is a very important piece of legislation because there is something called a Joint Health and Safety Committee under that legislation, which is composed of people who are workers, and people who are management, who actually get to take a look and see "is the workplace safe". So in most larger companies, the Joint Health and Safety Committee is a very important part of the monitoring process.

If there's a problem in the workplace, the Ministry of Labour has inspectors who can step in and intervene to make sure that the workplace is safe for employees. Now employers are also required to make sure that not just the equipment is safe, but that it's a safe environment; the people that you're working with are treating you appropriately, and are not bullying or harassing you that make the workplace unsafe. This is a new piece of legislation that was added recently, and it's important to remember that an employer is responsible for the safety of their employees while they're in the workplace. And the Ministry of Labour, of the government, can then step in and enforce that legislation if necessary.

The next piece of legislation that you're going to deal with, potentially, is the Workplace Safety and Insurance Act. That one also includes the word 'safety', but it's really an insurance plan. It means that employers pay into an insurance plan, and an employee who is injured then gets to make a claim against that insurance fund to say, "I can't work because of my injury that I suffered at the workplace. I need some income, and so the Workplace Safety and Insurance Board will decide what compensation can be made payable and benefits to the injured worker. The idea here is that this benefits injured workers: they don't have to hire a lawyer, they don't have to sue the employer; they simply can make a claim against the insurance fund. So you will need to know whether or not yours is the type of work and the type of workplace that is covered by that statute.

Now we are in a situation where at every step one of your employees may not be injured on the job necessarily, but what if something happens in their family? What if they require a leave of absence? What if there's a situation that develops? What's the law? When do you have to give an employee time off? When is an employee entitled to a leave of absence without pay, which means they can take the time off and the job has to be there when they come back? All of this is found in the Employment Standards Act. So the Employment Standards Act is all the minimums and maximums, and all the rules that cover workplaces. Minimum wage, for example. When do you have to pay overtime? Vacations, breaks, leaves of absence are all covered by the Employment Standards Act in Ontario.

When an employer takes on an employee, they not only have someone who will help them with the work that needs to be done; the employer assumes vicarious liability for the work of that employee. That's the legal term. What it means is that an employer, who benefits from the work that the employee does for them also has to take responsibility for any wrongdoing by that employee, or any injury or harm or damage that that employee causes. So vicarious liability for every employee means that you as an employer have to make sure that your supervisors, your managers, and anyone who is responsible for employee conduct are aware of the law, and aware that they cannot be harassing [or] discriminating against employees, because if they do, you as the employer will be held responsible. So vicarious liability is a very significant part of employment law, and it's one of the reasons that many employers try to create jobs that are called independent contractors when they're really not because vicarious liability means that the employer will be responsible, and may be ordered to compensate someone who's been injured or harmed by an employee.

One of the important reasons for providing feedback to an employee and providing training is that you want to be sure that you are not going to find to have condoned bad behaviour. Condoning means that you have allowed someone to continue to do things - while working for you - incorrectly, or not as well as should be done. If you've allowed that to continue you will not be able to terminate that employee without providing fairly significant reasonable notice because you didn't provide the feedback, you didn't provide the training. But while you have an employee there are many, many acts and statutes that apply to you - many rules; the ones we've covered are the basics.