

Decoding The Legal Jargon: A Comprehensive Guide To Understanding Your Employment In Canada (Part 2)



Key Components of Your Employment Agreement

Welcome back to our exploration of employment agreements. In this second part of our series, we will delve into the key components that make up these crucial documents¹. From contract terms to legal terminology, understanding the intricacies of your employment agreement is paramount for navigating the complexities of the workplace. Let's dive in.

Overview of Key Contractual Terms:

Employment agreements consist of various terms and clauses that define the rights and responsibilities of both employers and employees. It is always important to review and understand each term and clause in the agreement. At the minimum, you must review and understand the following key components:

- Duration and Type of Employment: This section specifies the duration of your employment, whether it is permanent, temporary, full-time, part-time, or contractual. Understanding the type of employment, you are entering is essential for managing expectations and planning your career trajectory.
- Compensation and Benefits: Your employment agreement outlines the details of your compensation package, including salary, bonuses, commissions, and any other forms of remuneration. Additionally, it covers benefits such as health insurance, retirement plans, vacation days, and other perks provided by the employer.
- Job Duties and Performance Expectations: Clear delineation of your job duties and performance expectations is crucial for setting mutual expectations and ensuring alignment between your role and the employer's objectives. This section serves to define the scope of your responsibilities, delineating specific tasks and objectives that you are expected to fulfill. This clarity enables you to effectively prioritize your workload and allocate resources efficiently, because a drastic change in the scope of your responsibilities without your consent may make a case for constructive dismissal – which is not allowed under the Canadian employment regime.

Additionally, performance expectations often include measurable metrics or key

performance indicators (KPIs) that serve as benchmarks for evaluating your performance. Understanding these metrics provides a clear sense of direction and purpose in your work, allowing you to gauge progress and identify areas for improvement effectively.

2. Understanding Legal Terminology in Employment Agreements:

Employment agreements often contain legal terminology and “jargon” that may be unfamiliar to the average employee. Here are a few terms you should be aware of:

- **Non-compete Clause:** A non-compete clause restricts employees from engaging in competitive activities or working for competitors during or after their employment with the company. Understanding the scope and duration of any non-compete clauses is essential for protecting your future career prospects.
- **Confidentiality Agreement:** Confidentiality agreements, also known as Non-Disclosure Agreements (NDAs), prevent employees from disclosing confidential information about the company, its clients, or proprietary business processes. Adhering to confidentiality obligations is critical for maintaining trust and safeguarding sensitive information.
- **Ownership of Intellectual Property:** This is one of the complex areas in contracts of employment that requires the balancing of the rights of the employee as the creator of certain products or processes against the employer's rights to the ownership of products of their business activities. Note that at common law, there is a presumption that all inventions belong to the inventor, unless there is an express contract to the contrary or the person was expressly employed for the purpose of inventing or innovating and creates something new in the course of their employment.ⁱ

In **Questor Technology Inc v. Stagg**ⁱⁱ, where the Alberta's Queen Bench had to determine whether the Individual Respondents developed the Emission LP Burner Technology in the course of their employment with Questor to determine whether Questor is the rightful owner of the Emission LP Burner Technology. The court held that Questor may be the owner of the Emission LP Burner Technology if the Individual Respondents were expressly engaged for the purpose of inventing or innovating and created the Emission LP Burner Technology during the course of their employment with Questor. However, the Individual Respondents established that the new technology was researched and developed outside official work hours, without company's resources, and after the termination of their employment. As a result, the claim of Questor failed.

In essence, the specifics of the ownership of intellectual property under a contract of employment can vary widely. You should pay extra attention to this clause and seek legal advice to ensure that intellectual property created outside the ordinary course of your employment does not fall within the claim of your employer.

- **Termination Clause:** Termination clauses outline the circumstances under which either party can terminate the employment relationship, as well as the notice period or severance pay required.

Termination clauses are a critical aspect of employment contracts, governing the conditions under which an employer can end the employment relationship. These clauses outline the rights and obligations of both the employer and the employee in the event of termination, providing clarity and predictability to both parties.

In Canada, employment contracts are subject to various statutory requirements and common law principles that govern the enforceability of termination clauses. One of the primary considerations is ensuring that termination clauses comply with minimum

statutory standards set out in employment standards legislation. However, the common law principles surrounding termination clauses must not be overlooked as they are a critical consideration for employers and employees.

Common law refers to legal principles developed through judicial decisions that supplement and interpret the laws over time. The key common law principle relevant to termination clauses is the doctrine of reasonable notice. Reasonable notice refers to the amount of time that an employer must provide an employee before terminating their employment.

Determining what constitutes reasonable notice is a fact-specific inquiry that takes into account various factors, commonly referred to as the Bardal factors, derived from the seminal Canadian case **Bardal v. Globe & Mail Ltd**ⁱⁱⁱ. These factors include the employee's length of service, age, position, salary, and the availability of comparable employment opportunities.

It's crucial to emphasize that specific clauses remain in effect beyond your employment period. For instance, even after termination, employees are still bound by clauses such as Confidentiality and Non-compete. Being familiar with the terms of termination can help you prepare for potential job changes and protect your rights in case of dismissal.

- The Significance of Each Component in Your Contract:

Every component of your employment agreement serves a distinct purpose and carries significant implications for your career and well-being. Here's why each component matters:

- Clarity and Transparency: Clear and transparent contract terms ensure that both parties have a mutual understanding of their rights and obligations, minimizing potential conflicts and misunderstandings. In **Waksdale v Swegon North America Inc.**,^{iv} the Ontario Court of Appeal highlighted the significance of clear and transparent contract terms, particularly in the context of termination clauses. The court ruled that if any part of an employment contract, such as a termination clause, is found to be unenforceable due to ambiguity or lack of clarity, the entire termination provision may be deemed void.
- Legal Protection: Each component of the contract provides legal protection for both the employer and the employee, establishing rights and remedies in case of disputes or breaches of contract. For example, in **Honda Canada Inc. v. Keays**,^v Supreme Court of Canada examined the rights and remedies available to employees in cases of breaches of contract, particularly in relation to termination of employment. The case involved an employee, Kevin Keays, who was terminated by Honda Canada Inc. due to prolonged absences resulting from a medical condition. Keays sued Honda Canada Inc., alleging that the termination was wrongful and in violation of his employment contract.

The Supreme Court's ruling affirmed that employment contracts establish rights and obligations for both employers and employees. In cases where an employer breaches the terms of the employment contract, employees have legal recourse to seek remedies, such as damages for wrongful dismissal.

- Alignment of Expectations: By clearly defining job duties, compensation, and other terms, the employment agreement helps align expectations between the employer and the employee, fostering a harmonious working relationship.

The case of **Rutledge v. Canaan Construction Inc.**,^{vi} illustrates the importance of clearly defining job duties, compensation, and other terms in an employment

agreement. In this case, the British Columbia Court of Appeal addressed issues related to the clarity and specificity of employment contracts. The plaintiff, Mr. Rutledge, was employed by Canaan Construction Inc. and claimed that he was wrongfully dismissed.

One of the key points of contention was whether Mr. Rutledge's employment agreement adequately defined his job duties and responsibilities. The court emphasized the significance of clear and unambiguous employment contracts in aligning expectations between employers and employees. It noted that vague or ambiguous language in employment agreements can lead to misunderstandings and disputes, potentially resulting in strained working relationships.

Understanding the key components of your employment agreement is essential for navigating the intricacies of the employer-employee relationship. From contract terms to legal terminology, each aspect plays a crucial role in shaping your employment experience and protecting your rights in the workplace.

In part 3 of our series, we'll explore your legal rights and responsibilities agreements so that you are empowered to protect your interests effectively. Stay tuned for more valuable insights and guidance on employment law and workplace rights. If you have any questions about your employment, do not hesitate to [contact Osuji & Smith Calgary Employment Lawyers](#). We are here to help.

Footnotes

1 You can access the first part [here](#)

i Comstock Canada v. Electec Ltd. (1991), 38 C.P.R. (3d) 29 (Fed. T.D.) at 29

ii 2020 CarswellAlta 45, 2020 ABQB 3, [2020] A.W.L.D. 434, [2020] A.W.L.D. 435, [2020] A.W.L.D. 436, [2020] A.W.L.D. 437, [2020] A.W.L.D. 438, 314 A.C.W.S. (3d) 164

iii 1960 CanLII 294 (ONSC)

iv 2020 ONCA 391

v 2008 SCC 39, [2008] 2 SCR 362

vi 2020 ONSC 4246

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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