Is an Oral Promise to Pay Employees a Future Bonus Enforceable?



Suppose an official at your company orally promises an employee a bonus, overtime, or some other benefit. The official then leaves the company. Later, the employee who received the promise insists that the company honour it. Can the employee force the company to deliver the promised benefit? **Answer:** It depends. The key factors under contract law include:

- The existence of evidence that the promise was actually made;
- The authority of the official who made the promise to bind the company; and
- Whether the employee provided "consideration," that is, gave something of value in return for the promise.

Let's look at 2 cases illustrating how these factors play out in real-life situations.

Oral Promise Is Enforceable

Here's a case where an oral promise to pay a future benefit was binding on the company.

Situation

Goodyear sells a tire store to another company and the buyer wants the current manager to stay on. A Goodyear official promises the manager that he can return to Goodyear later and that when he does, his 6 years of previous service will count toward his Goodyear pension. The manager agrees and after spending 3 years with the buyer goes back to Goodyear. The official repeats the promise that the manager's prior 6 years with Goodyear will count toward the manager's pension. But on neither occasion does the official put the promise in writing. By the time the manager is terminated 27 years later, the official is dead. Goodyear refuses to stand by the official's promise and the manager sues.

Ruling

The BC Court of Appeal rules that the promise is enforceable.

Reasoning

The Court ruled that Goodyear had to honour the agreement between the manager and the official based on the following factors:

- **Evidence of Promise:** Even though there was no evidence other than the manager's word, the court believed that the promise had in fact been made.
- **Authority of Promisor:** Goodyear denied that the official had the authority to make such a promise. But the court noted that the official was a manager authorized to hire and fire and thus authorized to negotiate the terms of employment, including pension entitlements.
- **Consideration:** The manager had given something of value in return for the promise to credit the 6 years of previous service, namely, his agreement to stay on and manage the store for the acquiring company.

Wilson v. Goodyear Canada Inc., 2007 BCCA 136 (CanLII).

Oral Promise Is Not Enforceable

Here's a case involving a similar situation but a totally different outcome.

Situation

The owner of a company promises an office manager making $1,200 per month to discuss making the manager a company shareholder at some time in the future. Although the promise is oral, the boss sends the manager a letter confirming that share ownership will be discussed in the future. But the letter also states that the company has made no specific promises about ownership to the employee. The company is later sold. The manager claims that the new owner promised to give her a 5% share when he retired. But the promise is never written down. And, although the company raises her salary and gives her additional overtime, it doesn't follow through on the boss's alleged promise of 5% ownership. So, the manager sues.

Ruling

The Saskatchewan Court of Queen's Bench (as it was known at that time) rules that the promise is not enforceable.

Reasoning

The Court cites the same factors as in the *Goodyear* case:

- **Evidence of Promise:** As in *Goodyear*, the Court believed the manager's claim that the boss had actually made a promise of future benefits.
- **Authority of Promisor:** Also as in *Goodyear*, there was no question that the boss did have the authority to make binding promises on the company's behalf.
- **Consideration:** The difference between this case and *Goodyear* was the Court's finding that the employee in this case didn't provide consideration, that is, promise or deliver something of value to the boss in return for the promise of 5% ownership. The promise of share ownership wasn't made in exchange for her agreement to work for the company or to compensate overtime because the employee was already employed when the promise was made and her salary was already set, the Court explained.

Because of the absence of consideration, the Court concludes that the oral promise to pay a future benefit was unenforceable.

Degoesbriand v. Radford, 1985 CanLII 2848 (SK KB).