

Navigating Legal Rights And Responsibilities In Employment Agreements In Alberta (Part 3)



Welcome to the third installment of our exploration into the intricate world of employment agreements. In this segment of our series. We will delve into the legal rights and responsibilities implied within these vital documents. Specifically, we will look into the legal rights of employees and the corresponding responsibilities expected from employers within the framework of Employment Law. Understanding and upholding these legal aspects are essential for fostering a workplace environment characterized by fairness, respect, and compliance with the law. Let's explore deeper into the nuanced landscape of legal rights and obligations within employment agreements.

1. Employee Rights under Employment Agreement in Alberta:

Within the realm of employment agreements, employees possess certain fundamental rights aimed at safeguarding their well-being and dignity in the workplace. Here's a closer look at some of the key rights typically afforded to employees:

- **Right to Compensation:** At the heart of every employment agreement lies the promise of fair and just compensation for the work performed by employees. This encompasses not only the basic salary or hourly wage but also additional forms of remuneration such as bonuses, commissions, overtime pay, and other benefits outlined in the employment contract. **Section 8.1 of the Employment Standards Code** mandates an employer to pay an employee at a wage rate that is, at least, the minimum wage established by regulation.
- **Right to Non-discrimination:** Employees are entitled to be treated with dignity, respect, and fairness, regardless of their race, gender, age, religion, disability, sexual orientation, or other protected characteristics. Employment agreements often incorporate provisions that expressly prohibit discrimination, harassment, and retaliation in any form, thereby promoting diversity, inclusion, and equal opportunity in the workplace. In ***Entrop v. Imperial Oil Ltd., 2000 SCC 55***, the Supreme Court of Canada upheld the right of employees to be free from discrimination in the workplace. The court ruled that Imperial Oil had discriminated against Ms. Entrop on the basis of sex and emphasized on the employer's duty to provide a discrimination-free work environment. Discrimination in the workplace can often manifest in subtle and indirect ways,

posing significant challenges to the continuity of one's employment within a company. Despite the explicit prohibitions against discrimination, harassment, and retaliation within employment agreements, insidious biases may persist, undermining the dignity, respect, and fairness owed to every employee. This covert discrimination can take various forms, such as subtle microaggressions, biased decision-making processes, or disparities in opportunities for career advancement. Dickson C.J. in **Canada (Human Rights Commission) v. Taylor**¹ noted that this more subtle type of discrimination, which rises in the aggregate to the level of systemic discrimination, is now much more prevalent than the cruder brand of openly direct discrimination.

- **Right to Privacy:** In the age of digital technology and pervasive surveillance, employees have a legitimate expectation of privacy in the workplace. Employment agreements typically recognize and uphold employees' rights to privacy, safeguarding personal information, communications, and other sensitive data from unauthorized access or disclosure by employers. The case of **Jones v. Tsige, 2012 ONCA 32** established the tort of invasion of privacy in Canadian common law. While not directly related to employment agreements, this case expresses the broader legal recognition of individuals' right to privacy, including in the employment context. It is important for employees to review their employment contract for the personal data that the employer can legitimately process and provide to third parties for the continuity or termination of employment.

- **Employer's Responsibilities under an Employment Agreement in Alberta:**

Employers bear significant responsibilities towards their employees, encompassing duties to ensure a safe, fair, and supportive work environment. Here are some key responsibilities that employers are generally obligated to fulfill:

- **Duty to Maintain Safe Working Environment:** Employers have a legal duty to provide a workplace that is free from hazards, risks, and conditions that may jeopardize the health, safety, or well-being of employees. This entails conducting risk assessments, implementing appropriate safety measures and protocols, providing necessary training and protective equipment, and promptly addressing any concerns or incidents that may compromise workplace safety. Section 4(1) and 4(2) of the **Workplace Safety and Health Act** generally mandates every employer to provide and maintain a safe workplace and ensure the safety, health, and welfare of all employees at the workplace. The meaning of "Safety" now extends to preventing employees from suffering from workplace bullying or subjecting them to a toxic work environment. This aligns with the rationale put forth by Iacobucci J. in **Machtinger v. Hoj Industries Limited [Machtinger]**² and reflects the contemporary understanding that employers are obligated to treat their employees fairly and appropriately across all aspects of the employment agreement. This duty extends to actively supporting the well-being of employees and fostering a work environment that is conducive to their welfare.
- **Duty of Fair Treatment:** Employers are expected to treat their employees with fairness, equity, and respect, adhering to principles of procedural fairness and natural justice in all employment-related decisions and actions. This includes fair and transparent recruitment and selection processes, objective performance evaluations, equitable compensation practices, and impartial resolution of disputes or grievances. **Potter v. New Brunswick Legal Aid Services Commission, 2015 SCC 10**, the Supreme Court of Canada emphasized the importance of procedural fairness in employment-related decisions. The court ruled that the employer had breached its duty of fairness in terminating Mr. Potter without providing him with a meaningful opportunity to respond to the allegations against him.

Furthermore, employers are required to act in good faith particularly in their decision-making process and while conducting workplace investigations.³

- **Duty to Respect Employees' Rights:** Employers must respect and uphold the legal rights and entitlements of their employees as enshrined in employment agreements, collective agreements, and relevant employment legislation. This encompasses honoring contractual obligations, accommodating employees' religious beliefs or disabilities, upholding labor standards and employment regulations, and ensuring compliance with applicable laws and regulations governing the employment relationship. In **Starzynski v. Canada Safeway Ltd.**,⁴ the employer and union entered into an agreement adopting an employee buyout program which replaced senior high-wage employees with new employees at lower wages. As a result, fifteen (15) employees were ineligible to participate in the buyout because they were unable to work within the 52-week eligibility period due to disability. The complainants filed discrimination complaints to the Human Rights Panel, which found that an eligibility clause in the buyout discriminated against the complainants by denying them benefits because of their disability. The Panel held the employer and union equally liable for adverse impact discrimination since both were parties to the agreement that created the discriminatory workplace rule, and neither satisfied the duty to accommodate disabled workers to the point of undue hardship. This decision was upheld on appeal. In addition, the court in **Lloyd v Imperial Parking Ltd.**,⁵ found that the fundamental implied terms of the employment relationship is that an employer will treat an employee with civility, decency, respect, and dignity.

- **Consequences of Breaching Employment Agreement in Alberta:**

Breaching an employment agreement can have significant repercussions for both employers and employees, ranging from legal liabilities and financial penalties to reputational damage and termination of employment. Here are some potential consequences of breaching an employment agreement:

- **Legal Liability:** A breach of an employment agreement may expose the breaching party to legal action, such as a lawsuit for wrongful dismissal, discrimination, harassment, breach of contract, or violation of statutory rights. Depending on the nature and severity of the breach, the aggrieved party may seek remedies such as damages, compensation, injunctive relief, specific performance or a combination of some or all the remedies through civil litigation or administrative proceedings. In **Machtiger** the Supreme Court of Canada established the principle of reasonable notice as a fundamental aspect of employment law. HOJ Industries was found liable for wrongful dismissal for failing to provide Mr. Machtiger with reasonable notice of termination.
- **Damage to Reputation:** In addition to legal consequences, breaching an employment agreement can tarnish the reputation and credibility of both the employer and the employee in the eyes of stakeholders, clients, customers, and the broader community. Negative publicity, loss of trust, and damage to goodwill can have far-reaching consequences for the affected parties, impacting their professional standing, business relationships, and future opportunities.

Without disregarding the foregoing, current and former employees must refrain from making defamatory statements, including but not limited to false accusations, damaging remarks, or slanderous comments, which could result in a breach of their employment agreements. Robins J.A. in Walker v. CFTO Ltd⁶ posited that, "a company whose business character or reputation (as distinct from the character or reputation of the persons who compose it) is injuriously affected by a defamatory publication is entitled, without proof of damage, to a compensatory award representing the sum

necessary to publicly vindicate the company's business reputation."

- **Termination of Employment:** In some cases, a material breach of an employment agreement may result in the termination of the employment relationship, either by the employer or the employee. Depending on the terms of the agreement, the circumstances of the breach, and applicable legal standards, the termination may be deemed justified or wrongful, leading to potential claims for severance pay, wrongful dismissal, or other damages. In ***Honda Canada Inc. v. Keays, 2008 SCC 39***, the Supreme Court of Canada addressed the consequences of breaching an employment agreement. Honda Canada Inc. was found to have breached its duty of good faith and fair dealing in the manner of Mr. Keays' termination, resulting in additional damages beyond the reasonable notice period.

Understanding and upholding the legal rights and responsibilities enshrined within employment agreements are essential for fostering a workplace environment characterized by fairness, respect, and compliance with the law. By honoring these rights and obligations, employers and employees can cultivate a culture of mutual trust, accountability, and dignity, ensuring that the interests and well-being of all stakeholders are protected and respected.

In the next installment of our series, we'll explore effective strategies for *Negotiating And Modifying Employment Agreements*. Stay tuned for more insights on employment law and workplace dynamics and if you need legal support do not hesitate to [contact Osuji & Smith Employment Lawyers](#)⁷.

Footnotes

1 [1990] 3 S.C.R. 892(S.C.C.), at p. 931

2 1992 SCC 14,

3 Oberg v Saskatchewan (Board of Education of the Southeast Cornerstone School Division No. 209)

4 2003 CarswellAlta 1176, 2003 ABCA 246, [2003] A.J. No. 1030, [2004] 2 W.W.R. 51, 125 A.C.W.S. (3d) 437, 2004 C.L.L.C. 230-005, 21 Alta. L.R. (4th) 261, 231 D.L.R. (4th) 285, 299 W.A.C. 340, 330 A.R. 340, 47 C.H.R.R. D/220

5 1996 Carswell Alta 1036 at paras 37-41, [1996] AJ No 1087

6 1987), 59 O.R. (2d) 104 (Ont. C.A.)

7 You can access Parts 1 & 2 of the series [here](#).

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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