Navigating Workforce Changes Amid Tariffs And Price Increases

As economic pressures mount due to tariffs and rising costs, many businesses may find themselves facing tough workforce decisions. If you are a business owner wondering, “Can I lay people off because of tariffs and price increases?” — the answer is a resounding “maybe.” But it’s complex.

The Legal Landscape: Layoffs vs. Terminations

Understanding the difference between a layoff and a termination is essential when considering staff reductions. The approach varies between unionized and non-unionized workplaces, each with its own set of legal and procedural considerations.

Non-Unionized Workplaces

A “layoff” implies that employees will eventually return to work. However, layoffs are regulated and subject to specific legal conditions. Before laying off an employee, employers must ensure that their employment contracts include layoff provisions. Without such a provision, a layoff could be considered a constructive dismissal, giving employees grounds to sue.

Provincially regulated employers must also recall workers within the prescribed timeline under the *Employment Standards Act, 2000 (ESA)*. Failing to do so will result in the “layoff” automatically converting into a “termination”, meaning the employer must provide appropriate notice and severance pay.

It is unlikely that the need to reduce your workforce via terminations due to tariffs will meet the legal standard for frustration of contract. Therefore, employers terminating staff due to economic pressures must still fulfill legal obligations regarding severance and notice periods. In most circumstances, price increases do not absolve businesses of their regular responsibilities.

Options for Employers Facing Economic Challenges

If layoffs are necessary, businesses may consider presenting employees with an amending agreement to their employment contract. This agreement would explicitly allow for an unpaid temporary layoff period while offering employees an incentive — such as a signing bonus — to accept the terms. If the employees decline, employers are left with two choices:

1) Terminate the employee, which requires proper notice and severance.

2) Proceed with a layoff without contractual justification, which risks a legal claim for constructive dismissal.

Unionized Workplaces

In unionized settings, employers must consult the collective agreement's specific terms before making decisions. Unionized employees typically have clearer and stronger protections, making contractual compliance a key factor.

Can Employers Adjust Employment Terms Instead of Resorting to Layoffs?

For businesses that are under serious financial pressure, and which are reluctant to lay off employees, adjusting the terms of employment – such as wage reductions – is quite risky. Unauthorized wage cuts could result in claims of constructive dismissal if employees argue that their contractual terms were fundamentally altered. Whether a wage reduction is legally permissible depends on the extent of the wage cut.

For businesses navigating these uncertain times, proactive workforce planning is essential to protect both operations and employees.

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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