

# The Risk of Clinging to the Past: Why Demanding ‘Canadian Experience’ Could Lead to Legal and Reputational Fallout



For years, employers across Canada included one simple phrase in job postings – *Canadian experience required*. It seemed harmless, even practical. But what that line really did was tell thousands of skilled, educated newcomers that no matter what they had accomplished abroad, they would have to start over here.

Now, Ontario has outlawed that phrase. The province’s new legislation under the **Working for Workers Five Act** makes it illegal for employers to demand Canadian work experience in job ads or interviews unless it is absolutely required by law. For many, it’s a wake-up call. For others, it’s a warning: cling to old habits, and you may find yourself facing not just public criticism but also real legal and financial exposure.

## **Why This Change Matters**

This law didn’t appear out of nowhere. It’s the product of years of advocacy by human rights commissions, immigrant support organizations, and even business councils that have seen the cost of exclusion firsthand.

The **Ontario Human Rights Commission** has long held that requiring Canadian experience can constitute **indirect discrimination** under the **Human Rights Code**. That means it disproportionately disadvantages newcomers – many of whom are racialized – even if the intent was neutral.

So, when Ontario’s government decided to explicitly ban the practice, it wasn’t just cleaning up job ads. It was addressing a pattern of systemic bias that has kept qualified people out of the workforce for decades.

## **The Legal and Human Fallout of “Canadian Experience”**

Requiring Canadian experience doesn’t just violate new legislation – it risks breaching human rights protections and even contract law principles.

Consider a real-world case: A skilled mechanical engineer from Pakistan applied for a job with a major Ontario firm. The interview went well until the final question – “Do you have Canadian experience?” When he said no, the interviewer closed his folder and

ended the meeting. The applicant filed a complaint, and the **Human Rights Tribunal of Ontario** found that the employer's policy of requiring Canadian experience was discriminatory. The company paid damages and was ordered to implement bias training across its hiring team.

The Tribunal's reasoning was clear: experience is experience. The burden is on the employer to show that Canadian experience is truly essential to perform the job. Few can meet that test.

Beyond human rights exposure, there's also the risk of **misrepresentation** – another area where courts are taking a harder look at employers. If you tell a candidate that Canadian experience is a “must” when it isn't legally required, you're misrepresenting both the job and the hiring standard. If that misrepresentation results in someone leaving another opportunity or accepting inferior terms, you could be on the hook for damages. Courts have already applied similar reasoning in cases involving **unlawful inducement**, where candidates were persuaded to change jobs based on misleading statements about job stability or opportunity.

### **The Ethical Tightrope: Fair Competition for Talent**

This shift also raises deeper ethical questions about how organizations compete for talent. Cases like **ADGA Systems International Ltd. v. Valcom Ltd.** remind us that aggressive recruiting, if unethical or misleading, can result in personal liability for corporate officers.

While that case dealt with poaching and inducement, the principle applies here too: honesty, transparency, and fairness in recruitment are not optional. Employers who persist in using exclusionary criteria or deceptive language risk not just corporate liability but the personal accountability of decision-makers who knowingly allow those practices to continue.

### **The Reputational Risk Is Real**

In today's labour market, brand reputation is as valuable as compensation. A single story about discriminatory hiring can spread across LinkedIn, Reddit, or Glassdoor in hours.

Job seekers talk, and the modern workforce is increasingly driven by values. Surveys by **Glassdoor** and **Indeed** consistently show that more than **75 percent of applicants** research a company's reputation before applying. And over **60 percent** say they would turn down an offer from an employer with a history of discrimination or bias.

If your company still lists “Canadian experience required,” you're not just breaking the law – you're advertising a cultural problem.

The damage doesn't stop at bad press. It affects recruitment pipelines, partnerships, and even client confidence. Many large corporations, particularly in finance, healthcare, and technology, now include diversity and inclusion performance in their vendor assessments. A poor public image on fairness can cost you contracts and credibility.

### **The Practical Risk: Shrinking Your Own Talent Pool**

From a purely operational standpoint, clinging to “Canadian experience” shrinks the pool of available candidates at the exact moment when Canada's economy can least afford it.

The **Business Council of Canada** reports that **over 60 percent of employers** are struggling to fill skilled roles. Meanwhile, more than **400,000 newcomers** arrive in Canada each year, most with post-secondary education and years of international experience. Yet many are underemployed or leave their industries entirely because they can't get past hiring filters that demand local experience.

This is not a talent shortage – it's a recognition shortage. Employers that continue to screen out international experience are voluntarily tying one hand behind their back.

### **The Moral Shift: From Compliance to Inclusion**

For HR managers, this is the moment to go beyond compliance. Laws can change behaviour, but only culture changes hearts.

That starts with redefining what experience means. Instead of asking "Have you worked in Canada?" HR leaders can ask, "What results have you achieved in similar environments?" or "How have you adapted to new regulations, teams, or technologies in previous roles?" These questions assess capability, not geography.

Some organizations are already leading the way. A Toronto hospital network, facing chronic nurse shortages, created an onboarding bridge program for internationally educated nurses. Within a year, they filled dozens of critical roles and reduced turnover by **40 percent**.

A Halifax IT firm introduced a mentorship program pairing local managers with internationally trained engineers. Not only did it improve retention, but client satisfaction scores went up – largely because these hires brought diverse problem-solving approaches that improved project outcomes.

These are not just diversity wins – they are performance wins.

### **The Cost of Doing Nothing**

Imagine explaining to a tribunal, or worse, a journalist, why your company still asks for "Canadian experience" when the law says you can't. Imagine losing a discrimination case not because you meant harm, but because you didn't update a job posting template.

Now imagine the opposite: your organization becomes known as a place where global talent thrives, where fairness isn't a slogan but a practice. You fill roles faster, attract better candidates, and earn goodwill in a market where inclusion has become a true business advantage.

### **A New Definition of Professionalism**

In the end, this isn't about erasing Canadian standards – it's about broadening them. True professionalism is measured by ethics, adaptability, and skill, not by postal codes or accents.

Employers who cling to outdated ideas of "Canadian experience" are not protecting standards – they're protecting bias. And in a country built on immigration, that's not only unfair; it's unsustainable.

The HR leaders who embrace this change now will define the next era of Canadian employment – one where experience anywhere in the world is valued, respected, and recognized for what it truly is: proof of capability, not citizenship.