Treat Your Workers As You Would Like A Court To Treat Them": Connor Homes And The "New" Golden Rule Of Employer-Worker Relations

written by Rory Lodge | February 26, 2014

Classifying workplace relationships as employer/employee or principal/contractor can be problematic. Courts have wrestled with determining the intent of the parties (step 1) and whether the objective reality supports the parties' expressed intentions of the employer-worker relationship classification (step 2).

The recent unanimous decision of the Federal Court of Appeal in Appeal in *1392644 Ontario Inc. (o/a Connor Homes) v The Minister of National Revenue* 2013 FCA 85 [*Connor Homes*] does not establish a new test for answering the question of whether or not an individual is performing services as their own business on their own account. The decision is significant, however, because it succinctly pulls together the fragments of several previous decisions that, when pieced together, form the two-step approach a Court should use to sort out whether a worker is an employee or an independent contractor.

Although the decision in *Connor Homes* was released only a few months ago, it has already been followed in five subsequent cases and considered in two others. Employers should consider *Connor Homes* to be the "new" leading case on determining the employer-worker relationship.

Everyone knows the golden rule is to "treat others as you would like to be treated". However, in the context of classifying employer-worker relationships, *Connor Homes* suggests employers should heed a slight twist on this classic maxim: "treat your workers as you would like a Court to treat them".

Choosing whether to have your workers be employees or independent contractors is best done on a case-by-case basis.

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