

Unpaid Internships Receive Poor Report Card From Ontario Ministry Of Labour

written by Rory Lodge | November 18, 2014



Recently, the Ontario Ministry of Labour released the [results](#) of its recent internship inspection blitz, revealing that many internship programs violated the Employment Standards Act, 2000 (the “ESA”). In this blitz, the Ministry targeted the advertising, public relations, computer systems design, consulting services and information services industries, among others. The Ministry found 31 employers with internship programs, of which 13 were violating the ESA.

The most common violations included:

- failure to pay employees the minimum wage
- failure to pay vacation pay
- failure to pay public holiday pay

Altogether, the Ministry issued 37 orders, including a total of \$48,543 in back pay for those interns who the Ministry deemed were “employees” under the ESA.

These results point to the need for employers to carefully consider whether their “interns” will actually be viewed as “employees” under the ESA. As the Ministry warned in a 2011 [publication](#), just because someone is labeled an “intern” does not mean that an employer can hire that person without compensating him/her like any other employee. Last April, Jeff Mitchell and Virginie Dandurand wrote a post explaining the limited scenarios in which an employer can hire someone to perform work without providing the minimum standards of compensation required by the (Ontario) ESA and the Québec Act respecting Labour Standards.

Employment standards are not the only area where unpaid interns are receiving attention in Ontario. Bill 18 (a.k.a. the Stronger Workplaces for a Stronger Economy Act), which would give interns in Ontario protection under the Occupational Health and Safety Act, is already in the process of being passed by the Ontario government. As well, one private member’s bill has proposed requiring that employers post their interns’ rights as employees and creating a new complaints system. So far, there is no legislation being tabled in Ontario to modify or repeal the existing statutory

exception that legalizes certain unpaid internships. Nevertheless, the results of this blitz demonstrate that employers offering unpaid internships would be well advised to ensure that they meet the narrow criteria established by the province.

For more information, visit our Employment and Labour blog at www.employmentandlabour.com

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Article by Jon Pinkus