



# EMPLOYMENT LAW

Jill Sampson  
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# TERMINATION OF EMPLOYMENT

# EMPLOYMENT STANDARDS ACT, 2000

*S.O. 2000, C. 41*

- Non unionized
- Over 3 months
- Prescribed employees, over 50 employees etc.
- “WITHOUT CAUSE”

# NOTICE

- ESA s. 57
  - 1 week per year
  - Up to 8 weeks for 8 or more years of service
- JUDICIAL CASE LAW

# CASE LAW

## GENERAL RULE OF THUMB??

- Term of service (years, months)
- Level of skill required for job
- Employee age
- Availability of similar work
- Past performance reviews
- Medical issues
- Leaves
- How employee terminated

# NOTICE VERSUS SEVERANCE

- ESA s. 61 allows pay instead of notice
- Severance under ESA (s. 63-66) applies:
  - employed over 5 years, and:
    - “permanent discontinuance of all or part of employer’s business at an establishment”
    - 50 or more employees severed
  - OR-
  - Payroll over 2.5 million

# LAYOFFS

- “TEMPORARY”
- Maximum 35 weeks in 52 week period
- ...unless substantial payments...regular work week...excluded work week
- Otherwise terminated and Termination/Notice provisions apply

# CONSTRUCTIVE DISMISSAL

- Hours
- Wage
- Conditions



# BUYING OR SELLING A BUSINESS

# “SUCCESSIVE EMPLOYER” PROVISIONS

- Share purchase/sale
- Asset only purchase/sale
- All employees
- Key-man provisions

# DUE DILIGENCE

- List of all Employees:
  - Position, years of service, wage/salary
- All benefits
- Employment Contracts (written or verbal)
- NDA
- Non-competes
- Policies: vacation, shut downs, leave, hours

# OPTIONS

- Notice/Termination by Vendor
- Indemnities
- Holdbacks
- Offers of employment from Purchaser

# HIRING & MANAGING

# CONTRACTS

- Confidentiality & Non Compete
- Limit Notice/Severance
- Wages/Salary
- Vacation
  
- Written & Verbal

# EMPLOYEE EXPECTATIONS

## WRITTEN POLICIES OR DETAILED DISCUSSIONS:

- Hours
- Dress
- Late policies
- Vacation
- Training
- Overtime
- Late
- Sick
- Breaks
- Pay day
- Safety
- Vehicles
- Parking
- Telephone calls/internet
- Smoking

## OTHER

- Employee File
- CRA, WSIB, payroll etc.
- Benefits
  
- PERFORMANCE REVIEWS, MEETINGS & NOTES



# FAIR WORKPLACES, BETTER JOBS ACT, 2017

Bill 148 – NOT YET IN FORCE

Upon Royal Assent, amendments will be effective on varying dates between January 1, 2018 and January 1, 2019

# MINIMUM WAGE

	<b>Current</b>	<b>Oct. 1, 2017</b>	<b>Jan. 1, 2018</b>	<b>Jan. 1, 2019</b>
<b>General</b>	<b>\$11.40</b>	<b>\$11.60</b>	<b>\$14.00</b>	<b>\$15.00</b>
<b>Student</b>	<b>\$10.70</b>	<b>\$10.90</b>	<b>\$13.15</b>	<b>\$14.10</b>

- Casual, Part-time, Temporary and Seasonal Employees
- Scheduling (Min. 3 hours)
- Refuse shifts with less than 4 days Notice
- Min 3 hrs pay if shift cancelled with less than 48 hrs notice
- “independent contractors” penalties
- 3 weeks paid vacation after 5 years of service

- 10 Personal Emergency Leave days per year (2 paid)
- Death of Child – leave up to 104 weeks
- Family Medical Leave increased to 27 weeks in 52 week period (No doctors note!)
- Penalties – increased fines and publication
- 175 more Enforcement Officers



QUESTIONS?

Jill Sampson

[jsampson@owensoundlawyers.com](mailto:jsampson@owensoundlawyers.com)