

Human rights in the workplace



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The legal environment is critical to Canadian labour relations. Employment standards legislation mandates the minimum terms of employment such as minimum vacations, holidays and wages. These provide a floor for the negotiation of collective agreements. Any contract terms relating to issues covered by employment standards legislation must provide at least the minimum rights provided in the legislation.

Human rights legislation prohibits discrimination and harassment and imposes a duty to accommodate. All jurisdictions have their own human rights legislation. This legislation and the Canadian Charter of Rights and Freedoms are the basis for the law relating to discrimination in each jurisdiction.

Human rights legislation in each jurisdiction in Canada sets out prohibited grounds of discrimination. There are several prohibited grounds that apply to all jurisdictions in Canada, certain protections are not assured in every part of Canada. Discrimination based on age, marital status, physical or mental disability, and sexual orientation are found in federal and human rights laws throughout Canada; demographic factors such as family status, pardoned convictions, and gender identity do not fall within protected ground in several federal or provincial human rights code. Human rights are important in the relationships that exist between individuals and the government that has power over them. The government exercises power over its people. However, human rights mean that this power is limited. Provinces must look after the basic needs of the people and protect some of their freedoms.

Ontario's Human Rights Code, the first in Canada, was enacted in 1962. The Code states that every person has a right to equal treatment with respect to employment without discrimination or harassment because of race, ancestry, place of origin, color, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability (Rights Commission, 2016).

Discrimination happens in several ways. It can be direct, indirect, or systemic. Discrimination can also be things like reprisal, a poisoned environment, harassment, or racial profiling. Direct discrimination means discriminating against someone because you think they are different from you. It includes practices or behaviors that have a negative effect of a person or a group of people who belong to a ground listed under the Code. It doesn't matter that you didn't intend to treat them differently. What matters is whether your actions or what you said results in discrimination.

Constructive discrimination refers to a neutral rule that has an adverse impact on an individual because of prohibited grounds of discrimination; it may be unintentional.

Systemic discrimination may be part of a system, like how decisions are made, and the practices and policies, or the culture of the organization. For example, the head of the company likes golf, and only wants to promote managers who play golf.

In human rights legislation, there is a duty to accommodate that requires measure to be adopted preventing people from being adversely affected by workplace requirements based on a prohibited ground of discrimination.

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Government Objectives in Labour Relations

Government plays an important role in the regulation of labour relations process. Government has made bodies to oversee key processes such as union organizing, contract negotiations and the administration of the collective agreement. Government regulates the labour relations outcomes by overlooking agreements, strikes, and lockout. Government has to intervene in labour relations as they could affect the economy by causing inflationary pressure. To protect public interest and limit disruption of the public, governments can seek to avoid strikes and lockouts through labour legislation that places restriction on strikes and lockouts, assistance during negotiating in the form of conciliation and mediation and back to work legislation. Government regulates economy, control inflation and unemployment through monetary and fiscal policies. Government regulates market practices and results with minimum terms of employment and human rights legislations.

Role of Unions in Labour Relations

Unions are key actors in the labour relations system. The main objectives of unions are to improve the terms and conditions of work, protect arbitrary management action, providing conflict resolution and employee input and pursuing social and economic change. Unions try to achieve these objectives by organizing employees, contract negotiations, strikes and boycotts, grievances and arbitration, court / legal actions, political activities, union management collaborations and other unilateral actions.

Role of Management

In the private sector management has two main core objectives: the maximization of profit and maintaining control over the business. In the public and nonprofit sectors, employers seek to balance operating budgets, comply with government policy initiatives and meet the demands for the public services at reasonable costs. The management must achieve its objectives while taking care of its employees and not discriminating against them. The management has a duty to accommodate its employees till the time it does not cause them undue hardship. Possible measure to accommodate are allowing a period of absence from work, reduced hours, transfer to an alternate job, training to facilitate a move to another job.

Certification Process in Ontario

When the union applies to the board, the union must establish that it is a trade union as defined in the labour relations legislation, the application is timely, the group of employees specified in the application is an appropriate bargaining unit and the union has adequate support of employees in the proposed unit.

In the beginning of the certification process Ontario government makes the union send out a notification of application to both the employer and any current union(s). Certification package is send out by union that is described in Ontario Labour Relations boards (OLRB) and this information is also available to other parties to prepare their responses to the application. Then the union makes its application to the ORLB, along with membership evidence gather in the organizing campaign that it considers appropriate for a collective bargaining unit.

All the parties are then contacted by OLRB to ensure that the notification has occurred, the employer post a notice to the employees in the work place informing them that a vote will be held.

All the unions and the employers representing the effected employees give feedback to the OLRB within two days of the application being filed. The information normally includes the actual number of employees in the bargaining unit proposed by the union and any alternating bargaining unit proposed, while listing this information employers must decide if it's challenging the union application under section 8. 1 of Ontario labor relation act 1995.

Based on the information provided by the union, OLRB decides to sanction it if it appears the union has the support of at least 40% of the employees in the bargaining unit which is being proposed and if that's the case then a secret ballot vote is held in the work place within five days of filling the application, board has the power to change the time line if necessary. The voters whose eligibility to vote is in doubt and then they later become eligible, then their names are written on the envelope and dropped in ballot box. The OLRB holds a secret ballot vote. Anyone who is in the bargaining unit in the union that has applied for the certification can vote. If the majority (50% + 1) of workers who caste vote to unionize, the union is certified. On the off chance that the assentation can't be achieved, a hearing before the OLRB will be planned for four weeks after the vote. It's possible that the vote won't be numbered until after the board issues its choice. On the off chance that more than 50 percent of the votes are supportive of the union, the OLRB will grant certification.

References

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