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EMPLOYMENT & LABOUR

M A T T E R S

JUNE 2006

Million Dollar Mistakes How Not To Treat A Disabled Employee

by Richard B. Smith

The Ontario Court of Appeal has recently heard the appeal of *Keays v. Honda Canada* [2005] O.J. No.1145 and a decision is pending. The case will be closely watched as it appears to be a striking and classic example of the pitfalls involved in terminating a disabled employee.

Kevin Keays had been employed by Honda Canada for 14 years. By most counts, he was an exemplary employee who had the misfortune of suffering from chronic fatigue syndrome (“CFS”).

Although his disability was not diagnosed at the time, Mr. Keays was off work from 1996 to 1998 and in receipt of disability benefits. Notwithstanding the diagnosis of CFS in 1997, his LTD benefits were cancelled in 1998 and he returned to work. He was placed on a program that required each absence to be medically validated and Mr. Keays’ physician was required to estimate how often Mr. Keays would be absent from work. When those absences exceeded the estimate, Honda demanded that Mr. Keays see a company physician who threatened to move him back to a production line. The result of such a move would have been an aggravation of Mr. Keay’s medical condition. Mr. Keays then retained counsel. Notwithstanding efforts by Mr. Keays’ counsel to resolve the matter in a conciliatory fashion, Honda insisted that Mr. Keays see another physician. When Keays sought more information as to the parameters of the second examination and refused to attend until further details were forthcoming, Honda terminated him.

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The trial decision appears to emphasize that Honda took some pride in running a business in which there was no “slack” in the lean operation that it undertook. Notwithstanding that Mr. Keays was found to be a dedicated and conscientious employee who was proud to work with Honda and who wanted to make it his life work, his absences required his co-workers to assume some of his responsibilities. This did not sit well with Honda’s desire to run an efficient “computer-programmed workplace”. Further, Mr. Keays’ absences did not live up to Honda’s attendance expectations. This was so despite Honda acknowledging that the CFS was a disability and (under the Ontario Human Rights Legislation) a legal and medical excuse for the absences of Mr. Keays.

Honda was required by law to accommodate Mr. Keays and purported to do so (to exempt him from attendance-related progressive discipline) by requiring a doctor’s note for each and every occurrence “validating” the illness. The note was required before Mr. Keays could return to work, which was not the case with absences related to regular illnesses. This had the effect of lengthening Mr. Keays’ absences as he needed to book and attend a meeting with his doctor on every occasion. All parties were dismayed by the effect of this but Honda apparently “stonewalled” Mr. Keays’ efforts to find the solution and to lower the stress. This in turn aggravated his symptoms and increased his absences.

When Mr. Keays was terminated for insubordination (for failing to meet with the second company doctor), he suffered a 3-4 month period of post-traumatic disorder. He thereafter qualified for total CPP disability pension for his CFS, retroactive to his termination date, which disability continued through to the date of trial.

Although he was only a 14-year employee, the Trial Judge awarded Mr. Keays 15 months of compensation for his unlawful dismissal. In addition, the Trial Judge provided Mr. Keays with an extra 9 months for “Wallace” damages related to the manner of his termination and the activities of Honda leading up to the termination. Wallace damages are those damages, originating in the case of *Wallace v. United Grain*

Growers Ltd. [1997] 3 S.C.R.701, wherein the Supreme Court of Canada deemed an increase in the notice period to be appropriate in circumstances where the employer’s conduct in the dismissal of an employee was “unfair or is in bad faith by being, for example, untruthful, misleading or unduly insensitive.” (at. p.743) In this regard, the Trial Judge found that Honda’s tactics were intimidating, designed to imply that Mr. Keays’ condition was “bogus” and that Mr. Keays suffered significantly, both from a substantial loss of self-esteem and the resulting deterioration in his condition causing a total disability. Honda was chastised for not dealing with Mr. Keays in good faith and in not responding fairly to the conciliatory overtures of Mr. Keays’ counsel.

Mr. Keays was also awarded \$500,000.00 in punitive damages, which damages are awarded very rarely and only in the face of egregious conduct. Legal costs were also awarded to Mr. Keays, in excess of \$600,000.00, to assist him with the expense of retaining counsel to take the matter to trial.

It is clear that considerable funds are at risk when a disability case is mismanaged. In addition, the reputation of a corporation can suffer significantly in circumstances in which an employer purports to use “heavy-handed” tactics to deal with its employees.

The case highlights the necessity to deal with disabled employees in a fair and reasonable manner. An employer will be seen as having the power and ability to manipulate and abuse employees, particularly those who require compassion and fairness in their time of need. Failure to do so could easily result in significant damage awards against the employer, as was the case here, with the additional penalty of a substantial loss of reputation in the eyes of the community. In the Calgary market, in particular, the suggestion that an employer may be unfair, discriminatory or oppressive may well prove fatal to the attraction, recruitment or retention of valued employees. Employers need to be alert to circumstances, not only at the time of termination, but with respect to disabled employees within the ranks.



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Employers Dealing with Employee References: Are You Breaching Privacy Laws?

by James T. Swanson

INTRODUCTION

The purpose of this article is to give a general overview of the impact of privacy laws in Alberta on the practice of giving and receiving references concerning employees.

Can an organization considering employing an individual contact that individual's former employer for a reference without breaking the law? Can the former employer give out any information? What are the rules and the limitations?

BACKGROUND – PRIVACY LAWS

On January 1, 2001, the *Personal Information Protection and Electronic Documents Act* ("PIPEDA") became law in Canada. PIPEDA is generally intended to govern the collection, use and disclosure of personal information in the course of commercial activities in Canada.

PIPEDA applies to personal information about employees of federally regulated organizations but not to employees of provincially regulated organizations. PIPEDA also does not generally apply at all in those provinces, Alberta being one of them, which have passed their own "substantially similar" provincial privacy legislation.

The result in Alberta is that, except for federally regulated organizations, businesses are generally subject to Alberta's *Personal Information Protection Act* ("PIPA"). PIPEDA would still apply to transactions involving the transfer of personal information across provincial or international borders for consideration.

THE RULES UNDER PIPEDA

Under PIPEDA, the definition of personal information does not include the name, title, business address or telephone number of an employee. However, the consent of the employee is required to collect, use or disclose any other information about the employee in most circumstances.

PIPEDA applies to personal information about employees of federally regulated organizations but not to employees of provincially regulated organizations.

Employers are required to obtain the consent of the employee before collecting personal information about them. Consequently, in the case of an applicant for employment, the consent of the applicant would generally be required before a prospective employer could contact any references or prior employers.

In terms of providing a reference for an individual, the listing by an individual of prior employers or references in an application or resume is probably implied consent to contact the former employer, and for the former employer to provide information, but it might be prudent for both the prospective and the former employer to confirm with the employee that he or she consents to that

being done. The information asked for and given should be limited to what is reasonable in the circumstances. The practical result is that the prospective employer is unlikely to hear anything negative.

THE RULES UNDER PIPA

Employee is very broadly defined in PIPA and includes students, volunteers and independent contractors who are individuals.

Under PIPA, as long as an individual's business address, phone, email, etc. are used solely to contact them in their capacity as an employee or official of an organization, PIPA does not apply to that information.

Personal employee information is defined as "information about an individual reasonably required by an organization that is collected, used or disclosed *solely* [emphasis added] for the purposes of establishing, managing or terminating an employment or volunteer work relationship between the organization and the individual".

The consent of an employee is not required to collect, use or disclose personal employee information under PIPA. However, except in the case of a prospective employee, reasonable notification in advance is required, which is typically a letter from the employer advising the employee of the types of personal information collected, the purposes for doing so, and how it is to be used and disclosed. In addition, it must be kept in mind that there may well be information about an employee, or prospective employee, which is not included within personal employee information. Such other personal information will be subject to

Once a prospective employer has collected “personal employee information”, it may use the information without consent for the purposes of recruiting the individual.



the usual rules requiring consent, or there will have to be an available exemption such as a legal proceeding or investigation.

PIPA expressly provides, in section 15(1), that the consent of the individual is not required to collect personal employee information provided that the individual is either a current employee, or the collection is for the purpose of recruiting a potential employee. Section 15(3) permits an organization to disclose that information to an organization collecting it under section 15(1). The collection, use or disclosure has to be reasonable for the purposes, or in other words, the information must relate only to the employment or volunteer work relationship. Once a prospective employer has collected “personal employee information”, it may use the information without consent for the

purposes of recruiting the individual. However, the employer must keep in mind that once the individual has been hired, notification of the intent to further use or disclose such information will be required.

Accordingly, under PIPA, the bottom line is that as long as the information obtained is restricted to that falling within “personal employee information”, there is generally no requirement for either the former employer or reference when disclosing, or the prospective employer when collecting, to notify the prospective employee of the intent to do so.

OTHER CONSIDERATIONS

Finally, in addition to being certain that one is operating under the properly applicable legislation, it should be kept in mind that

privacy legislation may not be the only legal consideration. For example:

- ▶ Providing false and negative information may constitute defamation of character that could permit the individual to pursue a claim for damages.
- ▶ Giving false and positive information could lead the recipient, in reliance on a glowing reference, to hire someone less than desirable, which could, at least in theory, be actionable as a negligent misstatement.

As long as the parties to the communication properly determine which legislation applies, obtain consent (or not) as required by that legislation, act reasonably, limit themselves to personal employee information, and are honest and forthcoming, the parties’ legal exposure should be minimal.

Remedies

When a Pension Plan Loses its Registered Status

by Heather R. DiGregorio

Registered pension plans are widely used by employers to provide for the comfortable retirement of their employees. They provide a multitude of benefits to employees, including three main tax benefits. First, members of a registered pension plan generally may deduct contributions made to the plan from their income when calculating their income tax for the year (*up to certain limits*). Second, income earned on investments held in a registered pension plan is generally exempt from income tax as long as the funds are held in the plan. Third, in a number of situations, money can be transferred from one registered pension plan to another, without the member incurring a tax liability in respect of the transfer.

These benefits, however, are dependent on the pension plan retaining its status as a registered pension plan. What happens when a pension plan loses its status as a registered pension plan, and what can a member do to protect their investment?

A pension plan may lose its status as a registered pension plan when it ceases to comply with the requirements under the Income Tax Act for maintaining such status. The revocation of the registration of a pension plan does not cause the pension plan to cease to exist; instead the special tax advantages are lost.

In order to maintain a member's special tax advantages, it will be necessary to transfer their funds to another registered pension plan. However, it is critical that the funds be transferred to a new registered plan before the date that the member's current pension plan's registration status is revoked. If the transfer occurs after the revocation, then the transfer of funds will not qualify to be tax-exempt. This is very important since the taxation on a transfer after revocation may result in double-taxation on the member. The double taxation occurs because the funds are taxed once, on their transfer to the new pension plan, and will be taxed again when the funds are eventually paid out to the member upon retirement.

All is not lost, however, if the member does not succeed in transferring their funds to another pension plan in time (i.e. before the revocation of the pension's registered status). A recent decision from the Federal Court of Appeal has provided that members of a pension whose registered status has been revoked may apply to the Court to have the

effective date of the revocation altered, such that it is subsequent to the transfer of their funds into a new registered pension [**Boudreau v. Minister of National Revenue, 2005 FCA 304 (C.A.)**]. Alternatively, if the pension's administrator is appealing the loss of registered status, members of the pension may apply to the Court to have the revocation stayed until the appeal is decided.

Therefore, there is some remedy available to members of a pension that has lost its registered status, so that they may have adequate time to transfer their funds into a new registered pension without incurring any tax liability.

Hiring Foreign Employees

What Should Companies Be Thinking About?

By Richard B. Smith and Melissa Moulton Tennison

Major international companies have a significant business presence in Calgary, often staffing Canadian subsidiaries with employees from around the world. It is important for employers to consider the employment law issues that arise when employers transfer employees to Canada. Similarly, a host of issues also arise when a Canadian employer sends “expats” into a foreign jurisdiction to work. Establishing and monitoring an effective employment relationship can prove to be a difficult task.

As a starting point, the agreement to enter into a written contract, which delineates the terms and conditions of the employment relationship is helpful. Even in that instance, however, the parties will want to seek agreement as to which country and which law is to be used as the basis for interpreting the terms and conditions of the contract. Furthermore, even in circumstances where a written contract and choice of law has been determined, courts in many jurisdictions may choose to override that agreement, particularly if its terms and conditions fall below an established minimum standard. Contrary to the view of some, an employer cannot unilaterally dictate the terms and conditions of employment or, the obligations that may be owing upon the termination of that employment. Each country has its own set of “rules” both with respect to its own employment legislation and with respect to how conflicts concerning the jurisdictional issues are to be governed. Indeed, even in Canada, each province has jurisdiction over its own labour and employment rules and to further complicate

matters, the federal government also has jurisdiction over employment relationships in industries and sectors of the economy under their federal domain (including such interprovincial matters such as aeronautics, trucking, railways, and a host of federal works or undertakings).

Each country has its own set of “rules” both with respect to its own employment legislation and with respect to how conflicts concerning the jurisdictional issues are to be governed.

Having said that, most courts will honour and respect a specific and written agreement between the parties as to the law that is to govern the contract and as to the terms of that contract as long as the contract complies with the minimum legislative standards of the jurisdiction.

Many of the larger corporate employers have developed comprehensive agreements and expatriate policies that govern a wide range of circumstances. As with most employment contracts, these agreements and policies can be as complex and exhaustive as the imagination of the drafter. In addition to the standard items including starting date, term of employment, duties and responsibilities, salary, benefits, vacations, office hours,

resignation issues and termination period, the following items are often included in the expatriates’ employment contract:

- ▮ stipulation of the law that is to apply and the jurisdiction in which matters are to be tried, known as the “choice of law” clause,
- ▮ the denomination of monies to be paid under the agreement,
- ▮ satisfactory medical status,
- ▮ qualifications to apply for a work permit and visa to live and work in the designated jurisdiction,
- ▮ varying categories of prerequisites and benefits available for single or married employees and family members, where applicable,
- ▮ adjustments in compensation to deal with premiums required to keep employees whole in foreign jurisdictions, including cost of living allowances related to differences with respect to cost of food, clothing, housing, recreational activities, etc.,
- ▮ tax considerations such as the provision of tax consultants and identification of various schemes to deal with the tax accommodation in both countries,
- ▮ housing, furnishing and utilities costs,
- ▮ relocation expenses including guidelines with respect to transportation to and from the job site, as well as packing, moving, customs clearance, shipment and insurance for transportation costs,
- ▮ travel and temporary living costs,
- ▮ vacation and time off for travel given that the employee often needs to be available for work for extended periods of time in a foreign or secluded location,
- ▮ education systems and costs of continuing education for the employees’ family members,
- ▮ insurance to provide for comparable quality of care in areas of sick leave, medical, life and accident insurance,
- ▮ automobile costs or related expenses where driving is difficult, and
- ▮ early termination and repayment obligations in the event the employee seeks or obtains a position with a competitor in the foreign jurisdiction.

The increased mobility of employees, coupled with the increased volatility of political regimes and terrorist activities throughout the world have required corporations to focus on additional items in the international employment contract, including

- ▮ kidnapping and ransom insurance – becoming more prevalent in locations where the risk of kidnapping is significant. The existence of such a policy demands the strictest confidentiality for obvious reasons, and
- ▮ potential liability for tragedies in foreign jurisdictions – to address the increased likelihood of estates or family members (or injured employees themselves) seeking significant compensation from an employer who knowingly or unknowingly puts an employee “at risk” in a foreign jurisdiction.

A written contract provides certainty to the employment relationship. The reality, however, is that many international dealings are done without a contract outlining the significant terms and conditions of employment, leaving exposed many potential liabilities.

In such circumstances, an employer may face the following problems:

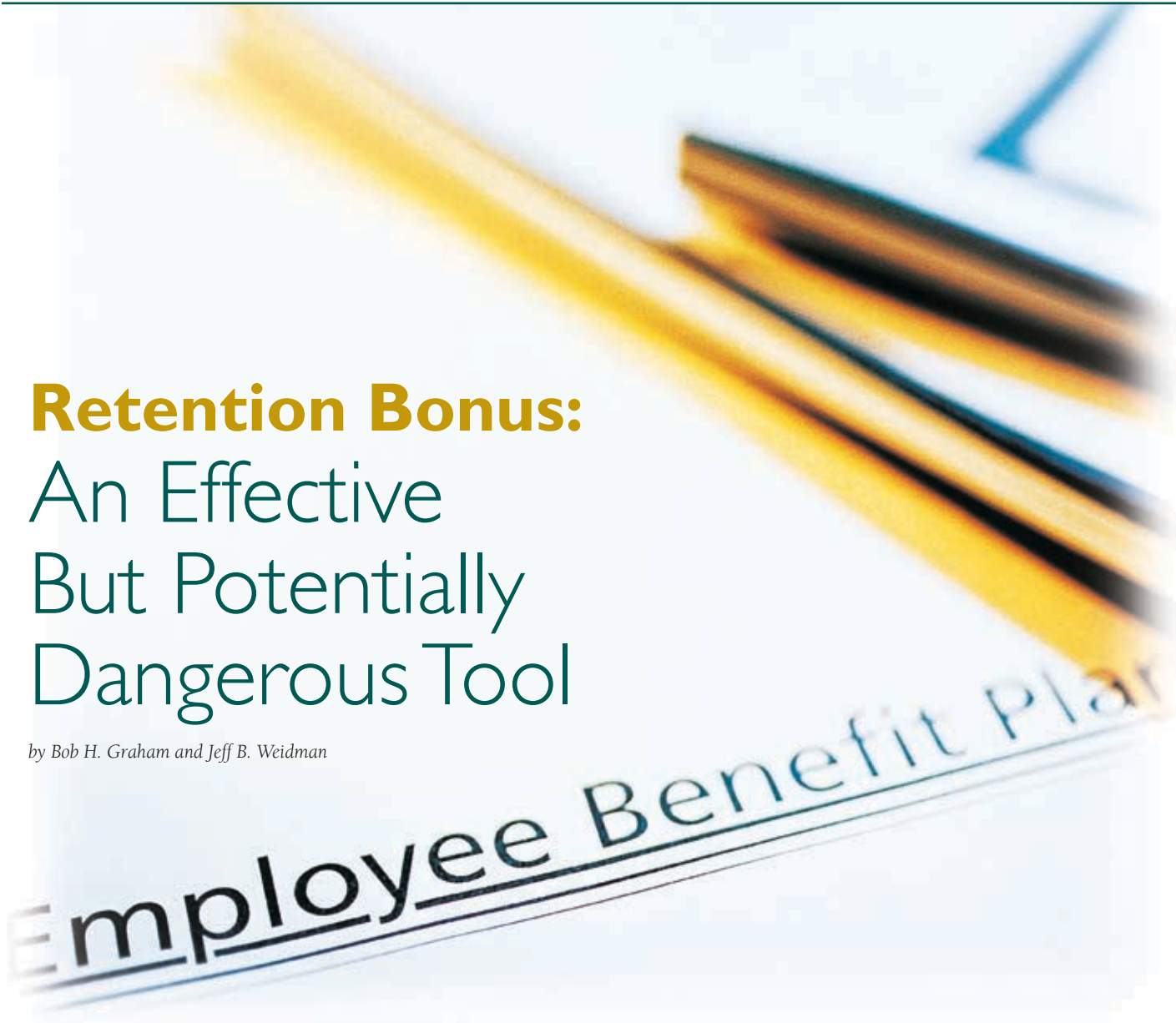
- ▮ an American employer of employees working in Canada could unknowingly provide the employees with the protection of Canada’s reasonable notice doctrine, which protection may be many times larger than that in the jurisdiction the employee has just left, creating a windfall for the employee,
- ▮ a transfer to Canada or to another jurisdiction may complicate the management of the employee and the termination process on issues outside the severance obligation such as insurance coverage (particularly disability and life), stock option vesting and exercise, award of future bonuses and incentive arrangements and pensions,
- ▮ “conflict of laws” issues in terms of which law applies to the employment contract, particularly where the employee works in multiple jurisdictions,
- ▮ issues arising from the failure to adequately monitor and assess the legislative standards (usually minimum obligations

that must be met in each jurisdiction in the individual is to work). Any attempt to contract out of a legislative provision is deemed to be void and against public policy in most jurisdictions, certainly in Canada. In that instance, the employment contract and the employment relationship will be governed by common law or the law of the jurisdiction in which the relationship has its closest and most real connection, and

- ▮ issues arising from failure to properly consider the tax regimes that may apply as well as the requirement to remit or withhold tax.

Adequate preparation and foresight are required to successfully create, manage and eventually terminate an employment relationship in a foreign jurisdiction. The development of appropriate employment contracts and expatriate policies that address the relevant issues associated with hiring employees in a foreign jurisdiction can minimize potential pitfalls and enable some certainty and predictability in regards to any liability the employer may face.





Retention Bonus: An Effective But Potentially Dangerous Tool

by Bob H. Graham and Jeff B. Weidman

WHAT IS A RETENTION BONUS?

The creation of a retention bonus plan is occurring with ever-increasing frequency in the Calgary marketplace. It usually involves the promise by the employer to pay a fixed sum of money to an employee at a future date so long as the employee remains employed through to that date. The purpose of a retention bonus plan is to assist a company in maintaining its current workforce and in preventing attrition.

WHEN ARE RETENTION BONUSES USED?

Retention bonus plans are typically used in circumstances where an employer feels vulnerable to attrition, most often in cases where the employer has announced that it is “seeking strategic alternatives”. Awareness of a company’s plans in that regard can lead to a significant

amount of uncertainty and concern among staff. Although an employer would like to maintain the organization as a “going concern” until conclusion of the contemplated transaction, an employee will be looking to the future. The employee may prefer to secure alternative employment, rather than face the uncertainty of what may happen once the business is sold, merged or reorganized.

Given the current competitive marketplace, however, there is an increasing use of a retention bonus arrangement for the sole purpose of avoiding the loss of employees to “greener pastures”. It is a reality that other employers are offering signing bonus incentives, lucrative option positions, job security and/or enhanced compensation in order to lure employees away from their current jobs. The response from many employers is to introduce ways and means to avoid this loss of manpower—one way being through the use of a retention bonus.

CONSIDERATIONS WHEN IMPLEMENTING A PLAN

In structuring such an arrangement, the employer needs to ask itself a number of questions. What amount of money will be sufficient? How much time should elapse before some or all of the payments are to be made? What terms or conditions should apply? Should this be available to the entire staff or to a select few? What should happen if the employee is terminated “without cause” prior to the payment date? How will the retention payment affect a potential severance payment, either with respect to a termination now or in the future?

In many instances, a retention bonus plan is put into place without appropriate consideration of either the possible or contingent events that may occur or the effect that the payout may have on both departing and continuing employees. One good example is the dilemma that employers face when they are dealing with a “not-for-cause” termination prior to the completion of the time frame contemplated for the payout of the retention bonus. It is difficult for an employer to draft the retention agreement so as to avoid payment in a “not-for-cause” termination. Most employees will see such a “claw back” or withdrawal clause as a very transparent way for the employer to avoid the retention payment by terminating select individuals immediately prior to the payment date (or earlier).

On the other hand, if an employer chooses to award a premature retention bonus to select employees to be terminated without cause, the result is often animosity or envy in the remaining employees. These remaining employees may want to “cash out” and move on to new employment, particularly given the current hot job market. Another possible negative consequence of payment of a premature retention bonus is that the payout to the terminated employees may be seen as a reward for poor performance. This could encourage remaining employees to become less productive or more antagonistic (short of creating cause) for the purpose of attempting to get on to the list of employees to be terminated.

All of the foregoing can be significantly amplified if the size of the retention payment is large and payable in a lump sum at a payment date long into the future.

When contemplating the structure and implementation of a retention bonus, the following items should be considered:

- the satisfaction of the goals of a particular company,
- the size of the bonus and the message conveyed by that size,
- the timing and the structure of the payment. It may be wiser to have the retention bonus accrue on a month-to-month basis (i.e. two weeks of extra salary for each month of service) and to have that bonus placed in an escrowed account to be paid out on the earlier of a termination date or the final payment date. A significant lump sum payment at a specified time in the future, with an accelerated payment for a “without cause” termination, could give rise to some of the difficulties with continuing employees as discussed above,
- the nature of employees who qualify for a retention bonus i.e. whether the retention bonus should be provided to select individuals or to a broader group. An organization may choose to provide different levels of retention bonuses to different groups,
- the maintenance and preservation the confidentiality of the particular awards (and the avoidance of internal discussion, so far as possible),
- the scrutiny of the plan by Canadian lawyers if the retention plan has been formulated by a parent or an affiliated company in another jurisdiction. i.e. there are significant differences between Canadian and American employment law,
- the effect of the current economic climate and its impact on the employers’ goals in creating the bonuses, and
- the characterization of the retention bonuses. At the time of severance, all prior compensation paid to the employee is often considered in the determination of an appropriate severance package. Employers will want to avoid any suggestion that retention bonuses are rewards for performance and will want to ensure that they are not to be included in past compensation (for the calculation of severance).

In many instances, a retention bonus plan is put into place without appropriate consideration of either the possible or contingent events that may occur or the effect that the payout may have on both departing and continuing employees.

What We’ve Been Up To

Bob H. Graham spoke at a Christian Labour Association of Canada conference in Jasper, AB in May 2005, on the issue of employee absenteeism.

Richard B. Smith was Co-Chair of the Insight Conference, *Duty to Accommodate- Proactive Management of Employees with Disabilities*, Feb. 27 -28, 2006 in Calgary, AB.

The recent decision of the Tax Court of Canada in *Dunbar v. The Queen*, 2005 TCC 769, provides a good reminder of the benefits of the Overseas Employment Tax Credit (“OETC”) for Canadian residents working outside Canada, particularly in the exploration for or exploitation of petroleum, natural gas, minerals or similar resources or in any construction, installation, agricultural or engineering activity. Under the *Income Tax Act*, those employees who qualify for the OETC are entitled to exclude up to 80% of the first \$100,000 of income earned outside Canada from their income. The OETC was enacted to enhance Canadian businesses’ competitiveness in foreign markets.

In *Dunbar*, the taxpayer was the captain of a super-tanker (the “VLCC” – very large crude carrier) which transported crude oil from the Arabian Gulf to Saint John, New Brunswick for refining at Irving Oil’s refinery located there. An English company, Norbulk Shipping contracted with Dunbar’s employer, Ocean Services Limited, to provide officers to operate the VLCCs in connection with the transportation of the two million plus barrels of crude oil.

The issue before the Court was whether the business of Ocean Services was in respect to the exploitation of petroleum. Justice Miller held that “exploitation means more than simply extracting and selling” and that “shipping crude oil where it can be refined is part of that overall exploitation, especially so where measures have to be taken to ensure the crude arrives safely”. He also agreed with the taxpayer that it was only when the value of the crude oil had been optimized that it had been turned to account—meaning the exploitation process. Justice Miller also drew an important distinction between employees of placement agencies (who do not qualify for the OETC) and subcontractors (who may qualify for the OETC).

Proper structuring and careful planning may enable Canadian employees to qualify their employees for the OETC. As a trade-off, Canadian employees will generally agree to lower wages in consideration for the fact that they qualify for the OETC. As a result, Canadian employers can structure their bids on international work proposals at a lower cost, thus increasing their competitiveness outside Canada.

STRUCTURING YOUR BUSINESS FOR International Competitiveness

by Michel H. Bourque



BD&P's Employment & Labour Team

EMPLOYMENT LAW

BD&P's Employment & Labour Law Team has the experience and depth to provide comprehensive advice and creative solutions in all matters pertaining to Employment Law. Our Team can provide prompt and practical advice specific to the client's business needs with a view to minimizing the recurrence of legal problems and promoting productive work environments.

Members of the Employment & Labour Law Team at BD&P work closely with other lawyers in the firm as part of a cross-disciplinary team, drawing on the skills and knowledge of lawyers in energy, securities, tax, intellectual property and other areas that arise in the context of employment law. In addition, these lawyers engage accountants, actuaries and other professionals where required to resolve our client's employment issues.

This Team regularly plans and negotiates a variety of successful termination proposals for both employees and employers, without resorting to costly litigation, and is experienced in alternative dispute resolution procedures such as mediations and arbitrations. Should the need arise; BD&P's Employment Law Team has extensive experience in all levels of court, commissions and panels.

SIGNIFICANT AREAS OF SERVICE:

- Assisting in the review, drafting, and development of personnel policies and practices
- Assisting in all aspects of wrongful dismissal and employment termination
- Interpretation and drafting of employment contracts, management agreements, consulting arrangements, competition and confidentiality agreements, change of control and retention contracts, stock option plans, bonus plans and trade secrets
- Conducting employment audits for the purpose of identifying employee relation risks
- Interpretation of legislation regarding hiring practices, benefits, employment codes and human rights issues
- Providing advice, strategy and direction on employment issues which arise in the context of corporate mergers and acquisitions and royalty trusts

- Drafting and interpreting harassment, discrimination, medical testing, drug and alcohol testing and human rights policies
- Advising clients in relation to privacy law, pension issues, WCB and other employment-related matters
- Providing advice to employers on safe effective practices for hiring, downsizing and terminations,
- Providing advice on Provincial and Federal human rights complaints including assisting with any investigation and acting as counsel throughout the process including mediation, arbitration and litigation
- Defending employment-related litigation
- Conducting seminars for Human Resource personnel on all aspects of employment law

LABOUR LAW

Members of BD&P's Employment & Labour Law Team advise employers and unions in all aspects of Labour Law including labour relations, labour standards and collective bargaining. Our practitioners have extensive experience in collective agreement negotiations and appear regularly before Provincial and Federal Labour Relations Boards and arbitrators.

BD&P's Employment & Labour Law Team is experienced in all facets of the complex landscape of labour relations.

SIGNIFICANT AREAS OF SERVICE:

- Collective bargaining, including analyzing and providing assistance in the preparation of union and management proposals, advising on strategies and providing representation throughout the process
- Advising clients on the interpretation and relevance of labour legislation at the Provincial and Federal levels, providing advice in relation to certification and decertification applications and providing advice relating to unfair labour practice issues
- Appearances before Provincial and Federal Tribunals, arbitrators and courts on a wide range of labour law areas including certification of bargaining units and collective bargaining disputes
- Providing interpretation and advice on collective agreements and dealing with any grievances that arise from collective agreements

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