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Seasonal Employees: Considerations for Businesses

It is common for businesses to hire seasonal employees to work during the summer months or other peak seasons. Hiring these kinds of employees can be a beneficial way for employers to meet temporarily increased business demands. Whether a seasonal employee is returning from the previous year, is new to the business, or is being referred to as a “summer intern”, there are several considerations that employers should be aware of.

Legal Entitlements

Generally, seasonal employees are protected under employment standards legislation, just like regular employees at the business. Thus, seasonal employees have many of the same legal entitlements as regular employees, such as minimum wage, overtime when applicable, vacation pay, and hours of work. Depending on the type of employment agreement they sign, seasonal employees may also be entitled to notice of termination.

Health and safety, human rights, and workers' compensation legislation also apply to seasonal employees.

Students & Interns

It is notable that many students and interns are also protected under employment standards legislation, just like regular employees. It is important for businesses to consult the relevant employment standards legislation in this regard.

For example, unpaid internships are illegal in provincially regulated workplaces in Ontario unless the internship falls within one of the exceptions listed in the *Employment Standards Act, 2000*. Such exceptions primarily include individuals who are performing work under a program authorized by a legitimate secondary school, college or university, or as part of training for certain enumerated professions.

Employers who offer student internships should review their programs and practices to ensure that they are compliant with legal obligations.

Employment Agreements

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Although a seasonal employee is only employed for a short period of time, implementing a proper employment agreement is just as important for a seasonal employee as it is for a long-term employee. For seasonal employees, fixed-term employment agreements are crucial to establish the term of employment so there is no confusion regarding the date that employment will end. A valid termination clause can also be useful for employers to limit any entitlements owed to the employee in the case of termination prior to the end of the term of employment.

Of course, employment agreements are also useful for stating key terms and conditions of employment such as compensation, hours of work, job duties, etc.

Employers have no obligation to renew a fixed-term employment agreement and rehire the same seasonal employee in the following year. For clarity, it may be beneficial for employers to state that there is no guarantee of employment for future seasons in the employment agreement. However, if an employer wishes to re-hire an employee for consecutive seasons, they may do so.

Hiring & Retaining

Hiring for peak business seasons will start well in advance. Job postings and descriptions should clearly outline the requirements of the position up front.

It is important to recognize that busy times of the year can be overwhelming for many businesses and their employees. To avoid employees who may resign due to stress or feeling overworked, employers should openly state their expectations and provide sufficient training for the role. Employees who are prepared for the challenges of seasonal work are more likely to succeed.

By providing seasonal employees a positive experience, they will be more willing to return in following years, which can save businesses time and money in recruiting and re-training.

Takeaway

It is crucial for businesses to be aware of the law and best practices when it comes to employing seasonal workers for the summer months or other peak seasons. If you require assistance with hiring, internships, employment agreements, or deciphering legal entitlements, please reach out to us! Our advisors are happy to assist.