



e2r Alert!

The Risks of Terminating Seasonal Employees: Lessons for Employers

With the colder weather soon to arrive, many employers are preparing to hire seasonal workers for the winter. A recent decision regarding a seasonal worker serves as a reminder to employers that having the appropriate HR infrastructure in place can save employers from costly mistakes when hiring seasonal workers.

In a recent decision, an employee argued that he was induced to leave stable employment to take a position as a Golf Superintendent but was terminated only one month later. The employee, working under only a verbal contract, argued that he had been wrongfully dismissed. The Court agreed with the employee and awarded 5 months' notice despite the very short tenure.

What did the employer do wrong?

- The absence of a written employment agreement
 - The employer did not commit the employment agreement into writing so there was a lack of clarity about the length of the employee's employment and no enforceable termination provision.
- The employer failed to engage in progressive discipline
 - At trial the employer argued that the employee was dismissed for cause for gross incompetence but did not substantiate this claim with any disciplinary documentation or evidence.
- The employer used "hardball" tactics during the litigation
 - In response to the wrongful dismissal lawsuit initiated by the employee, the employer countersued for damages to equipment and alleged that the employee's conduct and actions were tantamount to "incompetence, malfeasance, dishonesty, and egregious behavior". These tactics resulted in an award of nominal moral damages.
- The employer terminated the employee mid-season
 - The trial judge indicated that being fired mid-season would make re-employment difficult due to the employees' degree of skill and availability of similar employment.

These factors resulted in a large reasonable notice period award for the plaintiff.

Navigating an employee termination is never easy, especially when special factors such as seasonal employment are at issue. As always, if you have any questions regarding a specific situation, please do not hesitate to reach out to speak with an e2r™ Advisor.