

Hiring and Firing in a Unionized Environment

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- ▶ **What Is Employment Law?**
- ▶ **What Is The Difference Between Employment and Labour Law?**
- ▶ **What Does It Mean To Be Unionized?**

How does Employment and Labour Law Work?

- ▶ 1. The Common Law
- ▶ 2. Statutes

A List Of Important Statutes

- ▶ **Employment Standards Act**
- ▶ **Labour Relations Act**
- ▶ **Workplace Safety And Insurance Act**
- ▶ **Occupational Health & Safety Act**
- ▶ **Human Rights Code**

- ▶ **Pay Equity**
- ▶ **Employment Insurance**
- ▶ **Canada Pension Plan**
- ▶ **Income Tax Act**
- ▶ **Ontario Health Tax Act**

Canada: The Constitution

- ▶ Federal Jurisdiction
- ▶ Provincial Jurisdiction

Hiring: What's Different?

- ▶ Unionization, closed shop, dues and initiation fees, meeting stewards, informing the union
- ▶ Probationary Period in Collective Agreement
- ▶ Pay Rates
- ▶ Seniority Rules
- ▶ Evaluations
- ▶ Anti Union Animus

Firing: What's Different?

- ▶ Common Law versus Arbitral Jurisprudence
- ▶ Probationary: Termination and Arbitrability
- ▶ Just Cause versus Lay Off
- ▶ Recall Rights
- ▶ Evaluations
- ▶ Discipline Record
- ▶ During Unionization Drive

Firing: Lay Off

- ▶ **Common Law versus Collective Agreement**
- ▶ **Seniority**
 - ▶ Relative Ability v. Sufficient Ability
- ▶ **Right of Recall**
- ▶ **ESA provisions and Right of Recall**
- ▶ **Notice provisions of C.A. v ESA**
- ▶ **Grievances and Arbitration**



Firing: For Cause

- ▶ **Duty of Fair Representation**
 - ▶ Arbitration almost inevitable = COST!
- ▶ **Discipline Record**
 - ▶ What is discipline – what isn't
 - ▶ Incompetence?
- ▶ **Last Chance Agreements**
- ▶ **Arbitrator's ability to amend discipline**



Firing: For Cause

Discipline Record

- ▶ Sunset Clauses
- ▶ Keeping Records: Supervisors crucial
- ▶ Discipline v Evaluation
- ▶ What about warnings?
- ▶ **Last Chance Agreements: Enforceable?**
- ▶ **Innocent Absenteeism: A Special Case**
 - ▶ Duty to Warn
 - ▶ Human Rights Considerations