

Inducement + Implied Job Security = Bad Math for Your Organization

A recent Ontario Superior Court wrongful dismissal case has brought to the forefront the risks associated with recruiting high level employees.

In *Rodgers v. CEVA*, Bruce Rodgers (Rodgers) was induced to leave secure employment and accept the position of Country Manager, Canada with CEVA Freight Canada Corporation (CEVA). The recruitment efforts made by CEVA included 7 interviews, two trips to the CEVA head office in Houston and a personal meeting with the CEO of the global parent company. As part of his employment with CEVA, he was required to invest in the Company to demonstrate that he had his “skin in the game”. Rodgers borrowed \$102,000.00 to purchase CEVA’s share.

Rodgers was terminated after 3 years of employment without cause. In accordance with his employment contract, which the Court later found to be legally unenforceable, CEVA provided Rodgers with his minimum statutory entitlement to notice and benefits, plus an additional payment of approximately \$5,000.00. Rodgers was 55 years of age when his employment was terminated earning a base salary of \$276,000.00.

The Court awarded Rodgers 14 months’ notice and held that the inducement of Rodgers to a senior position was a factor that increased his entitlement to wrongful dismissal damages. Furthermore, based on the requirement to invest in CEVA, there was an implied representation that Rodgers was embarking upon a long-term employment relationship. This factor also increased Rodgers entitlement to reasonable notice.

This case serves as a reminder about the impact that a recruitment strategy can have on an employee’s entitlement to wrongful dismissal damages. Although CEVA did not intend to make any representations to Rodgers about job security, its intense recruitment efforts, coupled with a requirement to invest in the Company, implied that he could anticipate long term employment which directly contributed to a long notice period award.

Always exercise caution when recruiting employees, even where job security is not explicitly promised. The importance of enforceable termination language in an employment contract is pivotal to protecting your organization from a similar outcome.

Please contact e2r® if you would like to discuss your organization’s recruitment strategies.