

Getting it Right the First Time

Recruiting can be a long and arduous process – once we find that perfect candidate we're eager to get them on board! But sometimes there isn't enough time to draft a detailed employment agreement so we provide them with a brief offer letter outlining the most important information about their new job – start date, pay, benefits, vacation, etc.

What's the harm in getting the employee to sign the full employment agreement that outlines all the terms and conditions of employment (i.e. termination, restrictive covenants, etc.) once they start?

Entering into two agreements with a new employee – a basic offer letter followed by a more detailed employment agreement once they've started working puts employers at risk.

This is exactly what happened in a recent decision in *Holland v. Hostopia*. Mr. Holland signed a basic offer letter before he started work and a full employment agreement nine months later. He was terminated after seven years of employment and his employer provided him with minimum notice of termination in accordance with minimum employment standards legislation as outlined in his employment agreement.

The court held that because the employment agreement came AFTER he started work and without any special payment it was not enforceable. As a result, only the basic offer letter (without a termination provision) was the enforceable document. Accordingly, Mr. Holland was entitled to reasonable notice and was awarded eight months' severance.

What does this mean for employers?

When you are offering employment it is essential that the detailed employment agreement is signed before the employee commences employment and should be the **only** document provided to a new employee that outlines the terms and conditions of employment.

So throw out those initial offer letters and prepare **ONE** detailed employment agreement.

e2r® Alerts



Unlimited
Legal
HR
Documents

Please contact e2r® to discuss any questions that you have regarding employment agreements.

e2rsolutions.com

70 The Esplanade, Suite 401, Toronto, Ontario M5E 1R2

☎ 416-867-3093 📠 416-867-1434 📞 1-866-327-7657

