

Is your Uber driver an employee or an independent contractor?

Uber drivers have launched a proposed class action lawsuit in Ontario claiming they are employees, not contractors, and therefore should be treated as such for minimum employment standards purposes. This would include things like overtime pay, vacation, public holiday pay and minimum wage.

According to the claim, the lawsuit is seeking \$200 million in damages on behalf of any person who has driven for Uber in Ontario since 2012. The lawsuit is also seeking reimbursement for any Canada Pension Plan and employment insurance contributions they have made as independent contractors that Uber should have made as their employer.

It is important to remember that class action lawsuits, including this one, require certification by the court; essentially giving the action the “green light” to proceed. Uber drivers have launched similar class action lawsuits in other jurisdictions such as England and the US, all with varying success rates and so it will be interesting to see if the court in Ontario gives the lawsuit the ‘green light’ and if Uber drivers in other Provinces follow suit.

At e2r®, we regularly advise employers on the issues associated with engaging independent contractors. Given the potential risks associated with mislabeling the relationship, it is always advisable to seek legal advice in advance of entering into this type of contractual arrangement. We therefore encourage you to contact e2r® if your organization is considering engaging independent contractors.