

Brief to the Employment Standards Code Review

Presented By: The University of Manitoba Student's Union

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The University of Manitoba Student's Union (UMSU) appreciates this long-awaited opportunity to be a part of a much-needed review of Manitoba's Employment Standards Code. In recognition of our increasingly competitive economy and society, we hope that the Provincial Government will use this occasion to create effective legislation that will promote the interest of the workers, and truly protect those who most need protection from hardship, harassment, and exploitation while participating in Manitoba's labour force.

About UMSU

In 1906 a students' union was organized as part of the Faculty of Arts and Sciences. In 1907 the University Council organized the Student Representative Council, but it was not until 1919 that the University of Manitoba Students' Union (UMSU) was officially created. The UMSU Constitution, written in 1940, featured the following objectives: to supply students with extra-curricular activities; to facilitate personal contracts; to keep students informed on UMSU decisions; to bring the University into closer contact with the public; to attain continuity of student government; to act as an effective lobby to the Provincial government; to make academic proposals; and to work for the erection of a students' building. In 1975, a provincial statute incorporated the UMSU. The UMSU is the largest student organization in Manitoba and has numbers in excess of 28,000 graduate and undergraduate student members.

The UMSU represents the interests of students to the municipal, provincial and federal governments, as well as to the University administration. The Executive works with a number of universities and

colleges in the province and across the country to lobby for goals and policies that the Student Union has taken. The UMSU also tackles issues such as the right to an accessible education and lower tuition fees for all students, restoration of federal funding for education, alleviating student debt, transit discounts, and academic issues.

Once again, the UMSU welcomes this opportunity to present a brief to the Employment Standards review panel on behalf of its members.

Employment Standards

Employment standards are intended to establish a minimum level of employee's rights and benefits, but they also have another important role to play. In a 1983 case that went in front of the Manitoba Labour Board, *Imperial taxi Brandon Ltd. v. Hutchinson et al*, the Board decision included:

The purpose of employment legislation is to prevent the exploitation of those whom, to earn a living, have no choice other than to follow the directions of an employer as to the hours they must work and the manner in which the work is to be done.

In the thirty years since the last major review of the Employment Standards Code in Manitoba, there has been a dramatic increase in non-standard, or precarious, employment. Leah F. Vosko of York University defines precarious employment as follows:

Precarious employment is an increasingly common term used to highlight labour market insecurity. In Canada, precarious employment normally involves those forms of work involving atypical employment contracts, limited social benefits and statutory entitlements, job insecurity, low job tenure, low wages and high risks of ill health. Precarious employment is shaped by tendencies in late capitalism whereby employers use subcontracting and other strategies to

minimise labour costs and thereby lower the bottom of the labour market.

Many Manitobans can relate to this definition in one way or another, especially students, the underemployed, and working poor. This shift in the labour market should stand as a clear warning sign that changes in the current legislation are necessary. It is important that the Manitoba Government use the Employment Standards Code to ensure that marginalized workers have effective legislation that will guarantee protection and promote a good quality of life for all working Manitobans.

The UMSU supports many of the submissions that have already been made, including the submission by the University of Manitoba's Raymond T. Lee, entitled *Dealing with Workplace Harassment and Bullying*, as well as the submission by The Workers Organizing Resource Center (WORC). We would like to use this chance to highlight a few points and recommendations of these submissions and also make a few recommendations of our own.

Psychological Harassment

The UMSU supports University of Manitoba's Raymond T. Lee on his brief *Dealing with Workplace Harassment and Bullying*. We hope the Government closely examines and consider his definitions of Personal Harassment, Bullying, and Workplace Bullying.

The UMSU also supports the inclusion of legislation similar to that of Quebec's Employment Standards Legislation's and it's definition of psychological harassment:

Any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that can affect employee's The committee for psychological or physical integrity

and that results in a harmful work environment for the employee.

The lack of attention given to this issue in the past is unfortunate. Threats, harassment, and intimidation are no longer acceptable in society, therefore, should no longer be acceptable in the workplace, whether by co-workers or an employer.

Wrongful Dismissal and Unjust Termination

It is time that the Manitoba government established a way to regulate just or unjust termination of employees. The inclusion of wrongful dismissal legislation in the code could achieve this end.

A system of graduated discipline should be used when dealing with employee misconduct or when considering the termination of the employee. Doing so allows both the employer and the employee time to think rationally about what has happened, and also gives the employee an opportunity to change their behaviour if it was the cause of the disagreement. This simple measure could improve performance in the workplace, and reduce Manitoba's high turnover rate.

Termination of employment should be recognized as something that often causes the employee unnecessary stress, suffering, and financial hardship. Termination of employment should only be used when all other disciplinary measures have been exhausted.

Signing away rights

The ability of employers to opt out of compliance to the Employment Standards Code, such as a

variance for notice of termination, is unacceptable. As it stands, an employer simply has to include their own rules on a job application - once an employee signs the application they sign away their rights. If individuals do not sign these documents they often do not get the job. This should not be allowed to happen. Employers should not be allowed to hold jobs at ransom, and should always be expected to abide by the law.

Termination Notice

In addition, the Employment Standards Code provides for one pay period of notice to be provided prior to terminating an employment relationship. UMSU believes that not only should an employer not have the right to opt out of these provisions, but that a system of graduated notice based on the workers length of service should be implemented.

Unauthorized Deductions

The current legislation allows for deductions to be taken from the employee's wages as long as the employee gives permission to do so. Individuals are often told to sign these authorization forms upon hiring or when filling out an application, exploiting the position and power of the employer. Often these deductions go towards running the business, such as uniforms, effectively offsetting the business costs on to the worker. Any and all costs of doing business should be the responsibility of the employer.

Education, Compliance, and Enforcement

It is a sad fact that in Manitoba most employees do not know their rights while at work, and that the ones that do know their rights are afraid to act on them in fear of repercussions by their employer. Also, an employer can be found in breach of the Employment Standards Code, pay reparations, and still maintain the same type of illegal behaviour with their other employees. This is due to lack of education and lack of a compliancy policy. The UMSU would like to see a strong and proactive system of education and enforcement in Manitoba.

Paid Breaks

Many university students work part-time jobs to pay their way through school. Oftentimes the shifts are short, only four to five hours in length, and commonly in the afternoons and evenings. Many students work these shifts with no breaks because the code allows an employer five hours of work out of an employee before they are required to let the employee have a break. The UMSU feels this is unacceptable, and would like the length between breaks reduced to three hours.

UMSU also endorses the submission by the Manitoba Federation of Labour on matters relating to:

- **Coverage of Agricultural Workers**
- **Minimum Wage**
- **Leave**
- **Benefits for Part-time Employees**
- **Paid breaks**
- **Overtime and Call In Protections**
- **Vacation and General Holiday Entitlement**

- **Enforcement**
- **Independent Contractors**
- **Plain language guides and legislation**
- **Termination for Just Cause**
- **Group Terminations policy**
- **Job Losses as a Result of Corporate Mergers**
- **Severance**
- **Equal pay for work of equal value**

We hope that the review panel closely examine these recommendations and use this opportunity to make the working lives of all Manitobans better.

UMSU would like to thank the review panel for their time, and the Manitoba Government for raising the issue of employment standards in a time when change is so necessary. We appreciate this opportunity to be part of a process that can positively affect the lives of many Manitobans.