

Doorey's Workplace Law Blog

Thoughts on Canadian Labour & Employment Law For Students & Others

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11th August [Comments](#)

[Guest Blog: Gorsky on Whether the people offered jobs by Ford, but then told not to report, have an action against Ford?](#)

Posted on August 11th, 2008 at 3:43 pm

Ford Canada recently offered jobs to about 350 employees, which caused some excitement in Southern Ontario, where jobs in the auto sector have been disappearing faster than chocolate placed near my kids. Alas, before the lucky new workers even reported to work, the company changed its mind, and told them there were in fact no jobs. Some of these people had purportedly quit other jobs to join Ford, and were now out of a job.

In a [Toronto Star](#) piece reporting the story, Toronto employment lawyer Howard Levitt from Lang Michener suggested that the workers “have a right to compensation” for ‘anticipatory breach of contract’. Doorey’s Workplace Law Blog asked Toronto labour and employment law lawyer [Tom Gorsky](#), of [Sherrard Kuzz](#), to explain that little area of the law, and his views on the status of the would-be Ford employees.

Here’s Tom’s Guest Blog:

Almost as soon as Ford cancelled its third shift at its Oakville plant, calls were ringing out for lawsuits against Ford for having reneged on 350 job offers just before employees were to start work. Where do employers stand in such situations?

It is clear that the wannabe employees do not have a claim through the Canadian Auto Workers, as they have not yet become employees. But that does not automatically mean that Ford is off the hook. Non-unionized employees presumptively retain their rights to sue for breach of an agreement to hire. There are cases where employees have been awarded the equivalent of several months’ wages for breach of agreement to hire.

But it still seems unlikely that these employees will have much of a case. For one thing, there is every chance Ford covered its position in its offers of employment, so that a lawsuit for breach of agreement to hire would be stopped in its tracks.

And even if Ford has not protected itself through clauses in its employment agreements, it has a strong argument that the employees should have no more rights than if they had started employment and been fired on the first day. Had that happened, the collective agreement would likely have provided that the employees were still within their probationary period and not entitled to any further compensation.

The only good news for employees caught in this situation is that unlike

severance payments, if Ford does change its mind and agree to pay compensation, such awards are tax-free!

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