

# Bull, Housser & Tupper





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# Employment & Labour Law in British Columbia

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*Presented by:*

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**SFU Engineering Science**

**January 29, 2004**



# At Least Five Legal Regimes

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- Common law
- *Employment Standards Act*
- *Labour Relations Code*
- *Human Rights Code*
- *Workers' Compensation Act*



# Common Law

- law made by judges
- contract law
- oral and written
- express and implied terms  
eg. Reasonable notice of termination  
(or “Wrongful Dismissal”)





# Wrongful Dismissal

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- if no contract, reasonable notice
- based on age, service, position and chances of re-employment
- can range from 0 to 24 months or more
- includes benefit obligations





# Cause

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- theft
- dishonesty
- conflict of interest
- wilful disobedience
- insubordination
- incompetence
- absenteeism or lateness
- intoxication
- sexual harassment





# Duties of Employee

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- good faith and fidelity
- confidential information and trade secrets
- competition with former employer
- duties may continue after employment ended
  
- fiduciaries owe special duties to the employer



# Employment Contracts

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- address up front the implied common law duties
- often address such issues:
  - what constitutes reasonable notice
  - confidentiality
  - ownership of intellectual property
  - unfair competition



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# *Employment Standards Act*



- sets minimum terms and conditions
- deals with:
  - hours of work and overtime
  - leaves
  - vacation
  - statutory holidays
  - severance



## *Employment Standards Act*

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- applies to everyone in BC unless specifically exempted
- exemptions from entire *Act*
  - professional engineers
  - union members
- exemptions from portions of the *Act*
  - managers
  - high technology professionals
  - other employees of high technology companies



# *Labour Relations Code*

- governs relationship between employer and unions
- deals with:
  - how to unionize
  - right to unionize
  - collective bargaining obligations
  - right to strike, lockout and picket
  - how to decertify





# *Human Rights Code*

- protects employees against discrimination
- number of protected grounds
  - age
  - sex
  - sexual orientation
  - race
  - religious
  - colour
  - ethnic origin
  - marital status
  - disability
  - conviction





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# Workers' Compensation Board

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- work related injuries and illness
- safety requirements





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# The Unionized Workplace – Effects of Union Certification

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# Introduction: Dealing with Labour Law

- Why is labour law so different from employment law?
- entering a different world





# The Certification Process

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- application to BC Labour Relations Board
- support required:
  - 45% - vote ordered
  - < 45% - application dismissed
  - unfair labour practice – maybe automatic



# Pre-Certification Process

Why employees join:

- lack of information / communication
- changes imposed
- decisions made without input
- ignore dissatisfaction





# Union Organizing Technique

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- people of influence
- logical persuasion / persistence
- peer pressure
- misrepresentation





# Pre-Certification

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What employer can say:

- how certification application works
- individual and important choice
- do not have to talk to union
- no automatic increase – must be bargained



# Pre-Certification

What employer cannot say:

- loss of jobs, plant closure
- threaten reduction of wages / benefits
- ask if signed
- unfair treatment





# The Immediate Impact of Certification in the Workplace

- new duties imposed on employer:
  - freeze on discipline / termination
  - freeze on other changes
  - exclusive bargaining agency
  - duty to bargain in good faith
  - restrictions in communication with employees



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# The Long-Term Picture

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- collective bargaining
- first contract imposition
- strikes and lockouts





# The Long-Term Picture

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- economic weapons
  - picketing
  - replacement workers
  - hot edicts and consumer boycotts



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# A Presentation for SFU Engineering Science

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