



**Heenan Blaikie**

## Managing the Workplace

### 2010 Labour & Employment Seminar Series

**SAVE THE DATE**

*Mark your calendars with the following complimentary seminars...*

#### SPRING 2010

Hot Topics in Employment Law

Workplace Violence and Harassment: Meeting New Bill 168 OH&S Requirements and Managing the Problem

Winning Discipline and Discharge Cases at Arbitration

#### SUMMER 2010

Remaining Union-free in Turbulent Economic Times

#### FALL 2010

Managing Disability in the Workplace

Human Rights Update

Recruitment and Hiring: What Employers Need to Know

Workplace Privacy - Managing Within the Boundaries

#### CONTACT

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**Questions?**  
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Due to the popularity of our 2009 Managing the Workplace seminar series, Heenan Blaikie's Ontario Labour and Employment group is proud to announce that our breakfast seminar series is returning for 2010. We will host a series of seminars on a broad range of important topics in labour and employment law.

We have created a series focused on helping you manage your workplace in the current economic climate and addressing the important operational risks in your business. Each session will be at least two hours with ample time for formal and informal Q&A with our lawyers and, in some cases, external experts.

**A formal invitation and registration form will follow for each seminar. A number of these seminars will also be offered via Webex and teleconference.**

#### 2010 SEMINAR SERIES

### Hot Topics in Employment Law

Date: April 14<sup>th</sup>

Time: 8:00 am – 10:00 am

Location: Toronto offices of Heenan Blaikie

The good news is that after a turbulent 2009, Canada is slowly coming out of a recession. The bad news? New legislation and more legal implications that employers have to contend with when working with staff. Now more than ever, employers need to consider the practical implications and what their obligations are towards the proper handling of mental harassment and disability claims, recalls, terminations and layoffs.

### Workplace Violence and Harassment: Meeting New Bill 168 OH&S Requirements and Managing the Problem

Date: April 28<sup>th</sup>

Time: 8:00 am – 10:30 am

Location: Toronto offices of Heenan Blaikie

The Bill 168 amendments to the Ontario OHS Act received Royal Assent December 15, 2009 and will take effect June 15, 2010. They add to an already complex web of existing employment-related obligations, risks, worker rights and potential remedies for violence, bullying and harassment in the workplace. Human rights provisions, common law obligations, and now detailed OHS Act provisions all require that employers create comprehensive policies and take specific ongoing action to prevent violence, bullying and harassment. Remedies meted out by courts and tribunals have sent a message to workers that they need not tolerate violent behaviour in the workplace affecting their physical and psychological safety.



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This seminar will equip employers to meet and manage the multiple obligations and legal risks of this developing area. Participants will receive:

- Detailed commentary on Bill 168 for implementing each new obligation in the Ontario OHSA
- Information on risk assessment strategies including risk assessment templates
- Precedent workplace violence and workplace harassment policies
- Advice on managing overlapping obligations and risks under the OHSA, Human Rights Code, at common law and in the arbitral context; and
- Guidance on investigating incidents of violence, bullying and harassment and meting out appropriate discipline.

### Discipline in the Unionized Workplace

Date: May 11<sup>th</sup>

Time: 8:00 am – 10:00 am

Location: Toronto offices of Heenan Blaikie

In a unionized workplace, imposing discipline presents unique challenges for employers. Collective agreements create procedural and substantive rights and obligations that must be taken into consideration when disciplining unionized employees. The possibility of arbitral review and the application of well-developed arbitral principles respecting discipline, create a further layer of complexity and uncertainty.

In this seminar, we will help you understand the factors that an arbitrator will consider when assessing whether an employer's disciplinary response was appropriate. We will offer our top tips on how to avoid procedural pitfalls that can vitiate an otherwise valid disciplinary response. We will also discuss recent case law on mental illness and addiction as factors that diminish a grievor's culpability.

### Remaining Union-free in Turbulent Economic Times

Date: June 10<sup>th</sup>

Time: 8:00 am – 10:00 am

Location: Toronto offices of Heenan Blaikie

Union organizing thrives on employee anxiety and frustration. As the economic crisis begins to recede, many workers will become frustrated with the heavier workloads and reduced or frozen compensation packages that are the legacies of their employers' struggle to survive. The turbulent times will result in others feeling anxious about job security, regardless of the performance of their own employer.

At the same time, the recession has severely depleted union membership in Ontario and unions will be seeking to replenish their ranks by diverting resources towards organizing. Unknown at this stage is the eventual impact in Canada of proposed legislative changes in the United States that will encourage union organizing in that country.

This seminar will cover:

- Current trends in union organizing activity
- The latest tactics employed by union organizers
- Common reasons why employees join unions and early warning signs of organizing activity



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- The impact of the changes to Ontario's labour laws since the latest election
- What employers can do to reduce the risk, and the importance of positive and healthy employee relations.

### Managing Disability in the Workplace

Date: September 29<sup>th</sup>

Time: 8:00 am – 10:00 am

Location: Toronto offices of Heenan Blaikie

One of the most daunting issues facing employers today continues to be managing disability in the workplace. This issue involves the complex interplay of several areas of the law including human rights, privacy, employment standards and workers' compensation legislation, as well as the law of contracts and collective agreements.

This seminar will briefly review the applicable principles and then will tackle some of the most frequently encountered and difficult issues facing employers such as:

- To what extent must an employee's disability be accommodated?
- How does an employer deal with the problem of vague medical notes or uncooperative employees?
- What does an employer do when a mental disability is involved?
- What are the different approaches an employer may take to intermittent as opposed to lengthy absences?
- When can an employer terminate a disabled employee?
- Can an employer rely on assessments of an employee's disability made by the WSIB or a disability insurance carrier?

Practical case studies will be addressed and the seminar will be interactive.

### Human Rights Update

Date: October 19<sup>th</sup>

Time: 8:00 am – 10:00 am

Location: Toronto offices of Heenan Blaikie

It has been two years since Bill 107 came into force and sweeping amendments were made to the *Ontario Human Rights Code*. Gone is the Ontario Human Rights Commission's gatekeeping and complaint screening function; the courts now have jurisdiction to decide human rights claims; the time period for filing claims has doubled; the cap on mental anguish damage awards is unlimited; the litigation process has been greatly expedited; and the Ontario Human Rights Legal Support Centre is rendering free legal services to complainants.

Where do we stand, what trends are we observing and what are the early lessons learned?

This seminar will cover:

- Utilizing the dismissal and deferral remedy for managing parallel human rights and wrongful dismissal proceedings
- The one year limitation period: the law of continuing contravention
- Damage awards observation and trends: what has been the impact of the removal of the \$10,000 cap for mental distress damages?
- Case law update: what's new, noteworthy and significant?



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#### Recruitment and Hiring: What Employers Need to Know

Date: November 9<sup>th</sup>

Time: 8:00 am – 10:00 am

Location: Toronto offices of Heenan Blaikie

Hiring mistakes can be expensive and a source of headaches for employers long after the hiring decision is made. Learn how to navigate common problems that arise during the recruitment and hiring process.

In this interactive seminar, we will cover the following topics, among others:

- When and how can you engage in pre-employment screening (criminal checks, credit checks, etc.)
- What information can you request of candidates?
- Should you Google an employment candidate?
- What shouldn't you ask in interviews?
- Should you request pre-employment medical examinations? If so, when?
- How should you convey an offer of employment?
- How do you make a valid employment agreement?
- What should you do with applications from unsuccessful candidates?

#### Workplace Privacy — Managing Within the Boundaries

Date: November 25<sup>th</sup>

Time: 8:00 am – 10:00 am

Location: Toronto offices of Heenan Blaikie

The workplace has changed dramatically in recent years due to advances in computer and communications systems. With these new technological advances and ever evolving legal obligations, employers are being forced to explore their rights and responsibilities with respect to workplace privacy.

In this seminar, attendees will hear about the latest legal developments and receive practical advice on how to navigate through some of the difficult issues that arise, including:

- Surveillance in and out of the workplace
- Issues on hiring
- Dealing with medical information, including the latest on drug and alcohol testing
- The perils of the Internet and social networking.