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COVID-19: Laying-off or Terminating Employees

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For non-unionized employers in the province of Ontario there is a requirement to provide notice of termination of employment to most employees. This notice can be “working notice”, that is providing a date that the employment will end, or it can be “pay in lieu of notice”. Both the working notice period and the amount of pay is governed by a number of factors, the most important of which is length of service.

In the circumstances that an employer no longer has sufficient work to keep a staff member employed, the employer can put into effect a temporary lay-off. An employer does not necessarily have to specify a return date for a lay-off to be temporary and neither written notice nor a reason have to be provided.

A temporary lay-off can last no longer than 13 weeks in any 20 week period, or can be longer if certain conditions are met. These conditions include:

- If the employer continues to pay a substantial portion of the employee’s salary; **OR**
- If the employer has a supplemental Employment Insurance (SUB) Plan in place; **OR**
- If benefit premiums continue to be paid during the period of the lay-off.

If these conditions are not met, and if the temporary lay-off lasts longer than these prescribed periods, the employee would be entitled to a termination payment.

The exceptional circumstances that we are now facing have prompted some programs offering special assistance to employers including wage subsidies for small businesses.

To support businesses that are facing revenue losses and to help prevent lay-offs, the Government is proposing to provide eligible small employers a temporary wage subsidy for a period of three months. The subsidy will be equal to 10% of remuneration paid during that period, up to a maximum subsidy of \$1,375 per employee and \$25,000 per employer.

Businesses will be able to benefit immediately from this support by reducing their remittances of income tax withheld on their employees’ remuneration. Employers benefiting from this measure will include corporations eligible for the small business deduction, as well as non-profit organizations and charities.

If we can be of any assistance at this very challenging time, please contact a member of our Human Resources Consulting Group.

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