

Expanding to Ontario, Canada: Employment Considerations for Distribution Centres

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For distribution centres seeking to expand into Canada, the management of Canadian employees can be streamlined and simplified by the establishment of strong, employer-friendly employment agreements. This overview has been prepared to focus on questions relating to employment law in Ontario, Canada and, specifically, those questions most commonly asked by our distribution centre clients.

Each jurisdiction in Canada, including Ontario, has minimum standards that employers must adhere to. While an employer and employee may agree to benefits in excess of these minimum requirements, they cannot “contract out” of the minimum standards. As set out below, key areas that are the subject matter of employment standards legislation include: **(a)** minimum wage; **(b)** hours of work, rest periods and overtime pay; **(c)** vacation time, vacation pay and public holidays; and **(d)** termination of employment.

We are happy to assist with your expansion to Canada. If you have questions with respect to any portion of the below, or require further information on a topic that is not addressed, please do not hesitate to contact us further.

Fiona has also assembled [a short video](#) and [a one-page guide](#) that answer additional frequently asked questions about expanding into Canada.

Category	Question	Answer
1. Minimum Wage	What is the minimum wage in Ontario, Canada?	The general minimum wage is currently \$16.55 per hour.
2. Benefit Coverage	Is benefit coverage for employees mandatory?	No – employers are not legally required to offer private health insurance benefits to employees.
3. Termination	Do employers need a reason to terminate an employee?	No – terminations can be processed without a reason (except for discriminatory reasons) upon the provision of working notice of termination or pay in lieu of notice.

4. Notice of Termination	Does “ <i>at-will</i> ” employment exist in Canada?	No – while Canadian law does not recognize “<i>at-will</i>” employment, a well-drafted employment agreement can mirror “<i>at-will</i>” employment by limiting termination notice entitlements to only statutory notice or pay in lieu of notice, which tends to be relatively modest. Absent such an agreement, employees are entitled to substantial amounts in respect of notice pursuant to the common law. Statutory notice is based on an employee’s length of employment and, broadly speaking, is roughly one week per year of service up to a maximum of eight weeks. There is an additional payment of approximately one week per year of service that is owed on termination to an employee who has more than five years of service and where an employer has a global payroll of at least \$2.5 million or severs the employment of 50 or more employees in a specific time period due to a business closure.
5. Sick Days	Are employees entitled to paid sick time?	No – employees are entitled to three <i>unpaid</i> sick days annually due to personal illness, injury or medical emergency.
6. Rest Periods	Are there mandatory eating periods for employees?	Yes – a 30-minute meal break is required after an employee has worked for five consecutive hours. Meal breaks are unpaid unless otherwise agreed to.
7. Overtime	Are employees entitled to overtime pay?	Yes – for every hour worked beyond 44 hours, employees must be paid 1.5 times the employee’s regular rate of pay. There are several narrow statutory exemptions to overtime pay (i.e., for managerial employees, IT professionals and select salespersons etc.). Overtime exposure can be managed by the creation of “averaging agreements,” which modify how overtime is calculated.
8. Vacation	Are employees entitled to minimum vacation time and pay?	Yes – for employees with <u>fewer</u> than five years of service, a minimum of two weeks of vacation time is required. For employees with <u>more</u> than five years of service, a minimum of three weeks of vacation time is required.
9. Public Holidays	Are employees entitled to certain public holidays?	Yes – employees are entitled to nine defined public holidays. Most employees are entitled to take these days off work and be paid statutory public holiday pay. However, an employee and employer can agree to work on a public holiday and receive either public holiday pay for that day plus an enhanced payment required by statute, known as premium pay, or their regular wages on the public holiday and a substitute holiday on which they receive public holiday pay.

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Fiona has extensive experience advising international businesses entering the Canadian market. To date, she has advised more than 100 companies expanding into Canada. Fiona advises clients in this space all day, every day. She has been practising for more than a decade and is a regular speaker and writer on market expansion matters. Fiona is proud to have been recognized by *The Best Lawyers in Canada*, *The Canadian Legal Lexpert Directory* and *Benchmark Canada*.

A proactive and comprehensive approach is required to succeed in a new market. Fiona manages teams of other lawyers and patent agents to provide her clients with a full range of legal services to help their businesses grow. She acts as project manager to ensure her clients receive seamless legal services in all relevant areas.

Fiona takes great care to understand her clients' businesses and deliver advice that is tailored to meeting their specific needs. Her responsiveness, dedication to clear communication and hands-on approach show that she is personally invested in the success of her clients.



Jessica Schissler

Associate

Jessica is a passionate labour and employment law advocate. She is a natural problem solver who uses her strong communication skills to provide clients with efficient legal advice on workplace issues.

Jessica is a member of the firm's Workplace Law Group. Her practice focuses on labour and employment-related matters, such as employment contracts, policies, grievances and collective bargaining, as well as civil and commercial actions involving employment disputes. She also has experience with general litigation, including professional liability disputes.

Disclaimer: This article offers general comments on legal developments of concern to business organizations and individuals and is not intended to provide legal advice. Readers should seek professional legal advice on the particular issues that concern them.