

# The Three Most Common Employment Law Mistakes Made by Small Businesses

## 1. Failing to Obtain Legal Advice from an Employment Lawyer at the Outset and Throughout the Course of an Issue

The complexity of legal issues surrounding employment matters requires proper legal guidance of an Employment Lawyer both prior to and after the issues have arisen. By obtaining legal advice from the outset in the specialized area of Employment Law and continuing to utilize it throughout the duration of the business, the employer will be able to avoid certain legal issues, as well as limit the impact of those legal matters which are unavoidable.

## 2. Failing to Have a Hiring Letter Outlining the Terms of the Employment Relationship

Many employers underestimate the importance of a hiring letter drafted by an Employment Lawyer. By including termination clauses, non-solicitation agreements, non-competition agreements and a process for future amendments to terms, such as hours of work and pay, a hiring letter outlines the terms of the employment relationship, provides guidance both during and after the cessation of the employment relationship, and avoids potential legal disputes which may arise in the absence of such a document.

## 3. Failure to Provide a Letter of Reference

An employer's obligation to pay notice to a terminated employee may be reduced or relieved when the employee obtains new employment. Many employers do not realize that they can assist the employee in acquiring new employment sooner by providing them with a Letter of Reference. Failing to provide this letter ultimately hurts the employer by lengthening the employee's period of unemployment and accordingly, lengthen the period of time that the employer must pay notice.

Ronald S. Minken, Minken Employment Lawyers

There are countless more things to consider when setting up a franchise. I make a habit of suggesting that you put yourself in the place of a potential franchisee and make a list of the questions you would ask. You should also attend at least one franchise trade show again, acting like a potential franchisee and asking questions of the exhibitors and making notes on their responses. Be aware of what marketing material they are handing out.

### Consultants vs. staff:

When setting up a franchise system you have some alternatives as you seek help. A number of consultants across Canada will work with you to put your entire franchise package together and even help you find potential franchisees. But they are expensive and generally request a retainer and finder's fee for every franchisee they bring you. The other alternative is to find someone who is between jobs or semi-retired and a specialist in the area. They will work for an hourly rate, and the big advantage is they are working just for you, like an employee. Consultants are generally working on several accounts at once and it is possible that you will not get the amount of attention you need or expect.

Last but not least, do not expand too quickly. You should build your system from a nucleus and only grow at a rate that allows you to properly support your franchisees. If you have a great concept it will be very tempting to snap up those franchise cheques and open locations all over the country. Don't allow yourself to fall into this trap. Before you know it your franchisees in Vancouver will be complaining that they do not get enough attention if you are in Toronto. You need steady, solid growth, especially in the beginning. When the potential franchisees start calling your existing locations, they need to hear good news, not complaints.

There are lots of places you can go for advice and franchise specialists. Start with the Canadian Franchise Association ([www.cfa.ca](http://www.cfa.ca)). Also, go to the Ontario Government website to obtain details of the Arthur Wishart Act, the franchise legislation for the province.

Richard Cunningham is President and CEO of the Markham Board of Trade. He also served as President and CEO of the Canadian Franchise Association for 14 years and was one of the founding chairs of the World Franchise Council.

## Key Considerations In Selecting Franchise Opportunities Workshop

**Wednesday September 30, 6:30pm – 8:30pm**

Guest Speakers: **Richard Cunningham**, President & CEO, Markham Board of Trade. Past President, Canadian Franchise Association  
**Representative**, TD Canada Trust

Registration Fee: **\$15 or \$10 special rate for MBT members**

Are you considering acquiring a franchise? Not sure if a franchise is right for you? Designed to help a potential franchisee investigate a franchise before investing in one, this seminar provides in-depth pre-decision information and advice to prepare you for success. Topics Include:

- What is a Franchise?
- What to Consider in Your Research
- Key Elements of a Franchise Agreement
- How to Finance the Purchase of a Franchise

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