

**YORK UNIVERSITY**  
**SCHOOL OF HUMAN RESOURCES MANAGEMENT**  
**LIBERAL ARTS & PROFESSIONAL STUDIES**  
**HRM 3420, Winter 2024**  
**Human Resources Management**

**Course Director:**

Shah Ali, BHRM, MHRM, CHRP  
Email: shaha@yorku.ca

**Time:**

- Tuesday's - Weekly Lecture – 11:30am - 2:30pm

**Location: Keele Campus – Curtis Lecture Hall M**

**COURSE DESCRIPTION:**

The course explores how law governs the employment relationship. It focuses on two of work law's three regimes: (1) the common law; and (2) regulatory standards law. The third regime of work law, Collective Bargaining Law, is explored in HRM3422 Industrial Relations.

The course begins with an exploration of the Common Law model of the employment contract and the judge-made rules that have developed over time. We will learn about how judges have created a special type of contract to regulate work and that as judicial attitudes evolved, so too judges' interpretations of employment contracts. In the second half of the course, we will explore how Canadian governments have intervened in the common law model in pursuit of various public policy goals (i.e. better wages and working conditions, less discrimination in employment) through employment legislation. We will focus in this course on two examples: Employment Standards and Human Rights legislation.

The objective of this course is to introduce students to the fundamental concepts that guide the law of work. A key theme is that the law is shaped by developments and forces in broader society, and by the imbalance of power that permeates the employment relationship. This course will provide a strong foundation in work law for students interested in a career in HRM, labour relations, law, or public policy.

**PREREQUISITE:**

**Prerequisite: HRM 2600 3.00 This is a Hard Prerequisite. If you haven't taken it, you cannot take the class.**

**Required Text:**

Text: D. Doorey, The Law of Work, 2nd Ed (2020, Emond)

You can order the book directly from the publisher or the York Bookstore will also have copies.

**Course Preparation & Website:**

You are responsible for all assigned material covered in the lecture as well as the readings. There are a lot of "cases"—decisions written by judges and tribunals—considered in the readings and the lectures, as is to be expected in a law course. You should begin early in the term preparing a case summary log, which is a

quick summary of the main point from each case. You will use this to study from for the test and exam. I will use the eClass system to facilitate communication to and from students. Note that eClass will be the main venue through which lecture slides/PowerPoints will be posted, as well as up-to-date notices about the course, and your course grades. Please check the site as well as your Yorku email regularly for course related updates and information.

**Contact with Professor:** I am also available via email and zoom. Just email me and we can set it up. I look forward to working with you!

**Lectures:** I will upload the PowerPoint slides on eClass for each Topic on a weekly basis. The lectures will be held in person, including online articles and discussions.

### **Detailed Reading List**

Here is the detailed summary of the materials covered each week. You are responsible for all of the content of the assigned chapters. Read the chapter carefully, then watch the lecture recording, then do the answers and exercises at the end of each chapter.

### **Lecture 1 (January 9): Introduction to Employment Law & the Meaning of 'Employment'**

#### *PART ONE: INTRODUCTION TO THE LAW OF WORK*

We open with a discussion of the Three Regimes of Work Law in Canada. This course deals with two of the three regimes: (1) *The Common Law of Employment Regime*, and (2) *The Regulatory Regime*. [The third regime of work law, Collective Bargaining Law, is dealt with in HRM3422 (Industrial Relations)]. These first two chapters are descriptive and analytical and do not consider any specific area of law but instead provide an introduction and overview of how the legal system works 'in the real world'. For Chapter 2, you should be able to explain the different components/elements of the Framework.

#### **Readings:**

**Chapter 1:** Canadian Work Law in a Nutshell

#### *PART TWO: THE COMMON LAW OF EMPLOYMENT*

### **Lecture 2 (Jan 16): Employee Status and the Common Law Rules of Recruitment**

We begin by considering how the law defines the employment relationship. We then consider how the common law regime regulates (or does not regulate) the hiring and recruitment process.

#### **Readings:**

**Chapter 4:** What is Employment?

**Blog Post:** [Legal Oshidashi, Employment Status, and Gig Work](#)

[Podcast Hustled \(By Sara Mojtehdzadeh, Toronto Star\): Oshidashi](#)

**Chapter 6:** The Job Recruitment and Hiring Process in the Common Law

Complete Applying the Law exercises at the back of each chapter.

**Lecture 3 (Jan. 23):** *The Requirements to Create and Modify an Employment Contract*

We explore the requirements necessary to create an enforcement employment contract and the rules relating to contract amendment. We then begin our discussion of the terms of employment contracts by considering (1) how courts deal with ambiguous contract terms and (2) two types of contract terms that give rise to most employment contract disputes: restrictive covenant terms and termination of contract terms.

**Readings:**

**Chapter 7:** The Requirements to Create and Modify Employment Contracts

**Blog Post:** [How to Amend an Employment Contract ... Lawfully](#)

**Chapter 8:** The Employment Contract: Expressed Contract Terms

UPDATE: The Ontario government recently intervened in the Common Law as discussed in Chapter 8 by banning most non-competition clauses entered into after October 2021. [Read this explanation on the Ministry of Labour website.](#)

This is what the Act says:

*67.2 (1) No employer shall enter into an employment contract or other agreement with an employee that is, or that includes, a non-compete agreement.*

Complete Applying the Law exercises at the back of each chapter.

**Lecture 4 (Jan. 30):     *Ancillary and Implied Contract Terms & Termination with Reasonable Notice***

We continue our discussion of employment contracts by considering ‘ancillary’ and implied terms before shifting gears to begin our discussion of the termination of employment contracts. Chapter 10 considers termination of a contract by an employer with “reasonable notice”.

**Readings**

**Chapter 9:**       Ancillary & Implied Employment Contract Terms

**Chapter 10:**     Termination by an Employer with “Reasonable Notice”

**Blog Post:**     [Does COVID Justify Longer Periods of Reasonable Notice?](#)

Complete Applying the Law exercises at the back of each chapter.

**Lecture 5 (Feb 6):       *Summary Dismissal and Wrongful Dismissal Damages***

This lecture examines “summary dismissal” (termination for cause and without notice). We then examine how courts assess damages if an employer is found to have “wrongfully dismissed” an employee.

**Readings:**

**Chapter 12:**     Summary Dismissal: Termination for Cause Without Notice

**Blog Post:**     [Would Rioting at Canada’s Parliament Building Be Grounds for Termination Without Notice?](#)

**Chapter 14:**     Damages in Wrongful Dismissal Lawsuits (217-225, you can skip the discussion on the Duty to Mitigate that runs from 226-229)

Complete Applying the Law exercises at the back of each chapter.

**Lecture 6 (Feb. 13):     *Termination of the Employment Contract by the Employee***

This lecture concludes our examination of the Common Law Regime by exploring employee resignations and Constructive Dismissal before we conclude with consideration of remedies in wrongful dismissal lawsuits.

**Chapter 15:**     “I Quit”: Termination of the Employment Contract by the Employee

**Chapter 13:**     “You forced Me to Quit!”: The Special Case of Constructive Dismissal

Complete Applying the Law exercises at the back of each chapter.

## **Part 3: The Regulatory Regime: Government Intervention in the Employment Relationship**

*The common law model, based on the concept of freedom of contract, gives considerable power to the stronger party, usually the employer. Out of concern that employers will exploit this power to insist on working conditions that are unacceptably poor for workers, governments have intervened and passed legislation to restrict freedom of contract. The purpose is to protect workers with the aim of producing working conditions that meet a basic standard the state deems acceptable. In this part, we consider two forms of government intervention—employment standards and human rights laws—and question why the state has intervened.*

### **Lecture 7 (Feb 27): Introduction to the Regulatory Regime and Wage Regulation**

We introduce the Regulatory Regime, and then consider employment standards legislation and the regulation of wages by Canadian governments.

**Chapter 17:** Introduction to the Regulatory Regime

**Chapter 18:** Wage Regulation (pages 285-292 ONLY)

**Blog post:** [CIBC Liable in Unpaid Overtime Class Action](#)

Complete Applying the Law exercises at the back of each chapter.

### **Lecture 8 (March 5): Employment Standards Laws: Regulating Working Time and the End of Employment Contracts**

We examine the regulation of working time in Canada, and then how governments regulate the end of employment contracts.

**Chapter 19:** Regulating Hours of Work, Time Off, and Overtime

**Chapter 20:** Regulating the End of Employment Contracts

**Blog Post:** [Covid-19, Layoffs, and Employment Standards: An Introduction](#)

Complete Applying the Law exercises at the back of each chapter.

### **Lecture 9 (March 12): Human Rights Statutes: Introduction and Discrimination**

We introduce Canadian human rights laws and the ‘two-step model’ for dealing with human rights issues in employment. The lecture concludes with a discussion of the “prohibited grounds” found in the Ontario Human Rights Code.

Readings:

**Chapter 21:** Introduction to Human Rights at Work

**Chapter 22:** The Two-Step Human Rights Model and the Prohibited Grounds of Discrimination

**Blog Post:** ["Job Boards are Rampant with Illegal Ads. Should Anything Be Done About It?"](#) (2017)

Complete Applying the Law exercises at the back of each chapter.

**Lecture 10 (March 19): Human Rights Statutes: Employer Defences to Human Rights Complaints**

This lecture examines employer defences to human rights complaints.

**Chapter 23:** The *Bona Fide* Occupational Requirement, the Duty to Accommodate, and Other Discrimination Defences

**Blog Post:** [Ontario Human Rights Commission Issues Statement on Covid-19 and Employment \(2020\)](#)

Complete Applying the Law exercises at the back of the chapter.

**Lecture 11 (March 26): Course and Exam Review**

**Snapshot of the course:**

Date	Topic	Readings	Chapter
Week 1 January 9	Introduction to The Law of Work		Chapter 1
Week 2 Jan 16	What is Employment? The Job Recruitment &  Hiring Process in the Common Law	<b>Blog Post:</b> <a href="#">Legal Oshidashi, Employment Status, and Gig Work</a>  <a href="#">Podcast Hustled (By Sara Mojtehdzadeh, Toronto Star): Oshidashi</a>	Chapter 4  Chapter 6
Week 3 Jan 23	The Requirements to Create & Modify Employment Contracts  The Employment Contract: Expressed Contract Terms	See above	Chapter 7  Chapter 8
Week 4 Jan 30	Ancillary & Implied Employment Contract Terms  Termination by an Employer with "Reasonable Notice"	<b>Blog Post:</b> <a href="#">Does COVID Justify Longer Periods of Reasonable Notice?</a>	Chapter 9  Chapter 10

Week 5 Feb 6	Summary Dismissal: Termination for Cause Without Notice  Damages in Wrongful Dismissal Lawsuits (217-225, you can skip the discussion on the Duty to Mitigate that runs from 226-229)	<b>Blog Post:</b> <a href="#">Would Rioting at Canada's Parliament Building Be Grounds for Termination Without Notice?</a>	Chapter 12  Chapter 14
<b>Week 6</b> <b>Feb 13</b>	<b>"I Quit": Termination of the Employment Contract by the Employee</b>  <b>'You forced Me to Quit!': The Special Case of Constructive Dismissal</b>	See Above	Chapter 15  Chapter 13
<b>Week 7</b> <b>Feb 20</b>	<b>No Class – Reading Week</b>		
<b>Week 8</b> <b>Feb 27</b>	<b>Mid-Term Exam</b>		
Week 9 Mar 5	Introduction to the Regulatory Regime  Wage Regulation (pages 285-292 ONLY)	<b>Blog post:</b> <a href="#">CIBC Liable in Unpaid Overtime Class Action</a>	Chapter 17  Chapter 18
Week 10 Mar 12	Regulating Hours of Work, Time Off, and Overtime  Regulating the End of Employment Contracts	<b>Blog Post:</b> <a href="#">Covid-19, Layoffs, and Employment Standards: An Introduction</a>	Chapter 19  Chapter 20

Week 11 Mar 19	Introduction to Human Rights at Work  The Two-Step Human Rights Model and the Prohibited Grounds of Discrimination	<b>Blog Post:</b> <a href="#">"Job Boards are Rampant with Illegal Ads. Should Anything Be Done About It?"</a> (2017)	Chapter 21  Chapter 22
Week 12 Mar 26	The <i>Bona Fide</i> Occupational Requirement, the Duty to Accommodate, and Other Discrimination Defences	<b>Blog Post:</b> <a href="#">Ontario Human Rights Commission Issues Statement on Covid-19 and Employment (2020)</a>	Chapter 23
Week 13 April 2	<b>Course &amp; Exam Review</b>	<b>Written Assignment Due</b>	

### **COURSE EVALUATION:**

<i>Written Assignment*:</i>	25%
<i>Mid-Term:</i>	35%
<i>Final Exam</i>	40%

### IMPORTANT YORK POLICIES:

#### **Academic Honesty (Senate Policy)**

Breaches of the Senate Policy on Academic Honesty are serious matters. To quote the Senate Policy on **Academic Honesty:**

The Policy on Academic Honesty is a reaffirmation and clarification for members of the University of the general obligation to maintain the highest standards of academic honesty. It outlines the general responsibility of faculty to foster acceptable standards of academic conduct and of the student to be mindful of and abide by such standards.

Faculty members are encouraged to pursue suspected cases of academic honesty with formal charges. Students should, however, review the York Academic Honesty policy for themselves at: <http://secretariat-policies.info.yorku.ca/policies/academic-honesty-senate-policy-on/>

Students might also wish to review the interactive on-line Tutorial for students on academic integrity, at: <http://www.yorku.ca/academicintegrity/tutorial.htm>

#### **Grading Scheme and Feedback Rule (Senate Policy)**



The course assignment structure and grading scheme (i.e. kinds and weights of assignments, essays, exams, etc.) must be announced, and be available in writing, to students within the first two weeks of classes. Under normal circumstances, some graded feedback worth at least 15% per cent of the final grade for Fall, Winter or Summer term, and 30% for 'full year' courses in the Fall/Winter term should be received by students in all courses prior to the final withdrawal date from a course without receiving a grade (see policy for exceptions to this aspect of the policy: <http://secretariat-policies.info.yorku.ca/policies/grading-scheme-and-feedback-policy/>)

### **Final Examinations 20% Rule (Senate Policy)**

No examinations or tests collectively worth more than 20 per cent of the final grade in a course will be given during the final 14 calendar days of classes in a term. The exceptions to the rule are classes which regularly meet Friday evenings or on Saturday and/or Sunday at any time, and courses offered in the compressed summer terms.

### **Reappraisals**

For reappraisal procedures and information, please visit the Office of the Registrar site at: <http://myacademicrecord.students.yorku.ca/grade-reappraisal-policy>

### **Accommodation Procedures:**

#### **Deferred Standing**

The School of Human Resource Management's Deferred Standing Request process for Final Exams: **Within 7 calendar days** of a missed final exam, students must request a deferred exam by following these steps:

1. Submit a request online using the HRM Deferred Standing system: <http://shrm.laps.yorku.ca/students/deferred-exam-request/>
2. Submit the Deferred Standing Agreement (DSA) form along with supporting documentation (ie. Attending Physician's Statement) to the School of Human Resource Management. Students will be notified via email about the status of their request once their forms have been processed by the Undergraduate Program Director.

### **Students with Special Needs (Senate Policy)**

York University is committed to making reasonable accommodations and adaptations in order to make equitable the educational experience of students with special needs and to promote their full integration into the campus community. **Please alert the Course Director as soon as possible should you require special accommodations.**