

The Individual Employment Relationship
Law 326 A – Fall 2010
Instructor: Professor Judy Fudge

Course Information

Description

This course focuses on the law relating to the individual employer-employee relationship. It includes the law traditionally characterized under the head of “master and servant”, which was largely concerned with wrongful dismissal, but extends well beyond that. In addition to the common law governing the contract of employment, the course will examine the floor of irreducible rights with respect to a wide variety of employment benefits provided by labour standards legislation and human rights codes. While each Canadian province and the federal jurisdiction provides labour standard statutes and human rights codes, the focus will be British Columbia, although other jurisdictions will be examined to the extent that they provide important points of contrast. The goal of the course is to provide a comprehensive overview of the substantive law of employment and the procedures for this law’s enforcement. The general topics to be covered are:

- a) the legal background and contemporary context of the individual employment relationship
- b) formation of the employment relationship
- c) the rights and obligations of employers and employees under the contract of employment and protective legislation
- d) termination of employment; and
- e) enforcement mechanisms

Objectives

After reading the assigned materials and participating in class discussions, you will be able to:

1. identify the parties to an employment relationship, describe some of the general common law obligations owed by employers and employees, and describe how the parties can terminate their relationship;
2. apply the foregoing principles to a fact situation by developing accurate and persuasive arguments;
3. identify, describe, and critically assess the historical and contemporary purposes, effectiveness and underlying values of these legal principles;
4. describe and defend alternative legal rules with reference to a defensible normative position.
5. describe some of the legal entitlements of employees and reciprocal obligations of employers under the Employment Standards Act and Human Rights Code;
6. develop skills of statutory interpretation;
7. appreciate and understand the relationship between the common law of employment and statutes regulating the employment relationship;

8. identify key issues of enforcement and institutional design in effective statutory regulation of the employment relationship; and
9. develop an awareness of factual assumptions upon which the legal principles of the employment relationship are based.
10. integrate theoretical perspectives on employment law into the problem solving method.

Pedagogic Approach

Although the course is a lecture, as much as possible the course will be taught by the instructor as a dialogue with and between students. Students are expected to complete assigned readings in advance of each class and to reflect upon the matters to be discussed.

Assigned Materials

Individual Employment Relationship, Fall 2010, Professor Judy Fudge

The Employment Standards Act, R.S.B.C. 1996, c. 113.

The Human Rights Code, R.S.B.C. 1996, c. 210.

*These statutes are available via the course Moodle site.

The Course Moodle Site

The course Moodle site is an important component of the course. Not only will you find the statutes that you are required to read and to become familiar with through the course Moodle site, it contains important course information and announcements. Updated schedules will be posted on the course Moodle site. The following useful information is on the Moodle site: bibliographies, power points, how to write research papers.

In addition to accessing the statutes through the course Moodle site, you can also access the websites of the Employment Standards Branch and Human Rights Tribunal. Both of these organizations provide information on their websites that is extremely helpful in interpreting and applying the *Employment Standards Act* and the *Human Rights Code*.

Class Meeting Times

Tuesday and Thursday from 9 to 10:30 in room 157

Evaluation

There are three compulsory forms of evaluation in this course:

1. An assignment worth 25 per cent of the final mark due on **October 19 at the beginning of class. You must use a code name.**
2. A case comment worth 35 per cent of the final mark due on **November 23 at the beginning of class. You must use a code name.**
3. A final two-hour, open-book exam worth 40 per cent of the final mark on **December 10.**

*Late assignments and case comments will be penalized by a deduction of 10% of the total value of the assignment and/or case comment for each day that it late. Details about the assignment and case comments will be provided by September 16.

Crucial Dates

Class on **October 28th** is cancelled. You should take this time to work on your case comment. Class on **November 11** is cancelled (it is a statutory holiday).

Contact

You can contact me class (which is what I prefer) or by email at jfudge@uvic.ca. I prefer to make arrangement. My office hours are Thursday afternoon from 3:00 to 4:00 and my office is 233 Fraser Building. I am happy to arrange other times to meet, but if you drop by during office hours I am sure to be there. Please do not drop by my office before class, as I am always busy at that time.

The Calculation of Grades

The Law Faculty uses the following marking scheme to determine your final letter grade. The “verbal description” column reflects a rough consensus among faculty members concerning assessing student performance. I adopt this description in my grading for this course:

Numerical %	Grade Point Value	Letter Grade	Verbal Description:
90+	9	A+	Truly Exceptional
85-89	8	A	Excellent/Outstanding
80-84	7	A-	Excellent
75-79	6	B+	Very Good
70-74	5	B	Good
65-69	4	B-	Average/Competent
60-64	3	C+	Fair
55-59	2	C	Poor
50-54	1	D	Unsatisfactory (Marginal Pass)
49>	0	F (Failing Grade)	Totally Unsatisfactory

A short paper in the “A-range” will be characterized by clear and sophisticated writing style and a sharp identification, keen appreciation, and incisive analysis of the concepts and evidence involved.

Other Important Notes

Regulations

Students should obtain and review all regulations and policies contained in the University of Victoria Calendar, both generally and specifically for the Faculty of Law. The Undergraduate Academic Regulations set out the University’s expectations about attendance and assignments.

Classroom Climate

An inclusive, respectful, and diverse classroom environment is crucial to our work in this seminar. To ensure that all class members feel welcomed and equally able to contribute to class discussions, both I as instructor and you as students must endeavor to be respectful in our language, our examples, and the manner in which we conduct our discussions and group work. We have both an ethical and legal obligation to support this kind of environment. For your reference, you may wish to consult the University’s Discrimination and Harassment Policy (<http://web.uvic.ca/uvic-policies/pol-1000/1150HPP.html>). The University of Victoria and the

Faculty of Law are committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. I expect all aspects of this class to be conducted with this commitment firmly in mind. If you have any concerns about the climate of the class, please feel free to contact the Associate Dean or me.

Academic Integrity

As part of the academic community of both the Faculty of Law and the University as a whole, academic integrity is centrally important in the work of faculty and students. Please consult the University Calendar for policies respecting paraphrasing, plagiarism, cheating, and multiple submissions of work. If you have any concerns or questions, or require clarification, do not hesitate to drop by my office or to send me an e-mail. The policy on academic integrity can be found on the web at the following address:

<http://web.uvic.ca/calendar2006/FACS/UnIn/UARe/PoAcI.html>

Students with a Disability

If you have any type of disability, there are support systems, resources, and accommodation actions available to you. If you wish to access any of these supports, resources or accommodations, I encourage you to contact the Associate Dean or the Resource Centre for Students with a Disability (<http://rcsd.uvic.ca/home.ihtml>) and I would be more than happy to work with you to ensure your success in this course.

Accommodation of Religious Observances

The University of Victoria and the Faculty of Law have policies guaranteeing accommodation for those students who are unable to participate in a class or an aspect of the course owing to a religious holiday. If you will be missing a class, know that you will be unable to complete an assignment or exam, or otherwise require accommodation on account of a religious holiday, please speak with me (or the Associate Dean) and I will be pleased to work out some satisfactory form of accommodation.