



DUPUIS LANGEN  
FINANCIAL MANAGEMENT

# The benefit brief

*The employee solutions newsletter for the clients and friends of Dupuis Langen*

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## CASE STUDY: EMPLOYMENT CONTRACTS

### WRONKO V. WESTERN INVENTORY SERVICE LTD.

#### *Situation:*

Mr. Wronko signed an employment contract which entitled him to two years salary in the event that he was terminated without cause. Two years later, the employee was approached by the company's new president who asked him to sign an amended contract which significantly reduced his severance package. Mr. Wronko refused to sign the amended contract. In response, the company provided Mr. Wronko with a memo which informed him that in two years time the new employment terms would come into effect.

During the two year period, Wronko continued to work for the company. Also during the two year period, Mr. Wronko re-iterated his position on a few occasions. At the expiry of the two years, he was sent an email requesting that he sign the amended contract. The email also stated that "If you do not wish to accept the new terms and conditions of employment as outlined, then we do not have a job for you." The next day, Mr. Wronko replied saying that he took the position his employment had been terminated and sued for wrongful dismissal.

#### *Outcome:*

The courts determined that the employer could change the terms of the employment contract, on reasonable notice.

Under these circumstances, the court identified 3 options available to the employee:

1. The employee may implicitly or expressly agree to the change in employment terms, and employment will continue under the new terms.
2. The employee may expressly reject the change and sue the employer for damages for constructive dismissal
3. The employee may reject the new terms and the employer may terminate the employee with notice and offer re-employment on the altered terms.

However if the employer does nothing and allows the employee to continue working, then the employer will be taken to have acquiesced to the employee's position and the terms of the original contract remain valid.

In the above case the third scenario was applied. The implications of this decision affects plan sponsors as reductions in pension entitlements or other benefits could constitute a fundamental change to an employment contract. The decision should be carefully considered whenever a unilateral change is made to the terms of a pension or benefit plan.

### TAX FREE SAVINGS ACCOUNT (TFSA)

The Tax Free Savings Account or TFSA is a new retirement savings vehicle. It was introduced early this year in the 2008 federal budget. It officially starts January 1, 2009, however many financial institutions are already offering it.

Just like a Registered Retirement Savings Plan (RRSP) the investment gains in the TFSA accrue tax-free. However there are several significant differences between the TFSA and the RRSP. Most notably, contributions to a TFSA are made with after-tax dollars and not subject to tax deductions; but withdrawals from the account are tax-free. That makes TFSA more attractive to young and low-income people who may need to get access to the dollars they put into their plan.

There is an annual contribution cap of \$5,000 (for 2009), however there is greater flexibility than an RRSP, if the owner of the TFSA does not max out their contributions for that year, they can carry forward the balance to a future year. For example, a person who contributes \$4,000 to her TFSA in 2009 can add the unused \$1,000 to their contribution maximum for 2010.

Employers need to understand how the plan works and how it can enhance your benefit package so you can decide whether to sponsor a group TFSA for your employees. And even if you don't opt for sponsoring a TFSA, you should be prepared for questions from employees about the differences between a TFSA and an RRSP due to all the recent publicity these plans are getting.

If you or your employees are interested in the Tax Free Savings Account, you or your employees can contact us at our office to setup an appointment with one of our financial planners.

210 – 13900 Maycrest Way  
Richmond, BC V6V 3E2  
Phone: (604) 270-1142  
Toll Free: 1-888-766-6390  
Fax: (604) 270-3662  
Toll Free Fax: 1-888-636-1430

Web: [www.dupuislangen.com](http://www.dupuislangen.com)  
Email: [info@dupuislangen.com](mailto:info@dupuislangen.com)

### Thank you for your referrals

Business is great but new clients are always welcome!



If you know of others who may like to receive our newsletter or who would appreciate an audit of their group benefits plan, please let us know!

### Words of Wisdom

"Big jobs usually go to the men who prove their ability to outgrow small ones."

~ Theodore Roosevelt

Group life and health plans \* Registered pension plans \* Group RSPs \* Tax Free Savings Account (TFSA's)  
Critical illness plans \* Long term disability plans \* Integrated benefit solutions \* Private Health Services Plans (PHSP's)

## PLANNING FOR THE LONG RUN

Canadian employers are worried about a possible mass departure of baby boomers. According to a survey by Robert Half International, 60% of senior executives said that boomer retirements will have the greatest impact on the workforce over the next decade.

One issue of interest to boomers is retirement planning. And while the focus has traditionally been on financial readiness, planning properly for retirement means thinking about more than just income.

Long-term care planning focuses on preparation for healthcare spending as we age and need extra funds for home care, assistive devices, medications or home modification. We often ignore this area when we plan for retirement, believing that it is reserved for the elderly. However, according to data from Sun Life Financial, more than one out of every 10 people who has received long-term care insurance benefits was under age 50 at the time of claim

Women, in particular, need to be aware of the impact of long-term care on their lives because they face a double jeopardy. Not only do they provide the majority of care for loved ones, they also receive the most care because they tend to live longer. Women do worry more than men about future long-term care needs. According to a 2007 Manulife Financial survey (conducted by Market Probe Canada), 62% worry about the likelihood that they or their partners might need a nursing home, assisted living or home care in the future, and 63% worry about their ability to pay for this care. However, only 21% have factored long-term care costs into their retirement plans.

### Steps for Employees

Employees are often misinformed about long-term care costs, assuming that the government will take care of them later in life. Planning for future healthcare costs can help remove this burden from family and friends.

To plan appropriately, employees need to understand the healthcare system (for example, public versus private coverage) and the resources available to them. They also need to know their family health history and be aware of any chronic conditions that they may face in the future.

Based on all of this information, employees should establish clear financial and legal directions regarding future healthcare, ensuring that wills, powers of attorney and advance directives are complete and current. These documents should be stored in a safe place, communicated to family members and updated on an annual basis.

### Strategies for Employers

What can employers do to encourage employees to be more proactive about long-term care planning?

One option is to include communications and education initiatives in their benefits programs. For example, an employer could offer education sessions and resource materials or send out targeted communications with employee pay notices. These options are inexpensive and can easily be repeated so that employees will get the message.

Having employees who are more positively influenced and educated regarding their future healthcare needs can also

benefit employers. Should an unexpected adverse health event happen to an employee—or to his or her aging parent—employees who are prepared will be better able to cope with the costs and the stress, meaning less time off work and greater productivity during a difficult period.

Adopting this approach may also help employers to create a more attractive workplace in today's competitive labour environment. Boomers are becoming more involved with aging parents every day. Too often, they see first-hand the lack of planning and communication in their own families—and therefore, they are much more open to the opportunity to plan for themselves. Integrating long-term care planning into the group benefits program may help a company retain its older and more experienced employees.

No one likes to think about the unthinkable, but employers can help support their older employees by educating them about the need for long-term care planning—and then help them to make it happen.



### PLAN ADMINISTRATOR'S CORNER

The Canada Employment Insurance (EI) Commission, which has the authority to set the EI premium rate, has decided to keep the 2009 rate steady.

Starting on Jan. 1, 2009, the employee rate per \$100 of insurable earnings will be \$1.73 and the corresponding employer rate is 1.4 times the employee rate.

As prescribed in legislation, the rate is set based on economic forecasts from data on or before Sept. 30 of each year, the chief actuary's report and public input. As such, the proposed 2009 rate does not reflect recent changes arising from the deteriorating and rapidly evolving global economic situation and events after Sept. 30, 2008.

The maximum insurable earnings (MIE) will rise to \$42,300 for 2009, up from \$41,100, according to the formula prescribed by the *Employment Insurance Act* and described in the chief actuary's report. The maximum amount a worker earning the MIE would contribute for that year would be \$731.79 (an increase of \$20.76 from 2008).

The EI premium rate for Quebec will be \$1.38 for employees and 1.4 times the employee rate for employers. Starting in January 2006, Quebec began offering its own parental benefits, resulting in savings for the EI program and giving rise to a rate that is different from that for the rest of Canada.