News

OHRC Develops Policy on Removing the “Canadian Experience” Barrier for Job Applicants

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The Ontario Human Rights Commission (“OHRC”) recently posted a new policy directive entitled “Policy on Removing the “Canadian experience” barrier” which sets out the Commission’s position as follows:

. . . a strict requirement for “Canadian experience” is *prima facie* discrimination (discrimination on its face) and can only be used in very limited circumstances. The onus will be on employers and regulatory bodies to show that a requirement for prior work experience in Canada is a bona fide requirement . . .

The Policy notes that the most common barrier for newcomers looking for “meaningful employment” in Canada is their lack of Canadian work experience; however, newcomers are then placed in a situation where “they can’t get a job without Canadian experience and they can’t get Canadian experience without a job.” It establishes a list of best practices for employers, representatives of employers and regulatory bodies. These include reviewing job requirements and hiring practices to make sure they do not present barriers for newcomer applicants, using competency-based methods to assess an applicant’s skills and abilities, and considering all work experience, including that outside Canada.

As this directive is a policy initiative of the OHRC, it remains to be seen what effect will be given to it by the Human Rights Tribunal of Ontario. Section 30 of the *Human Rights Code* (the “*Code”*) authorizes the OHRC to publish human rights policies to provide guidance on interpreting provisions of the *Code*. The *Code* also provides that the Tribunal may consider such policies in a proceeding and requires the Tribunal to do so if requested by one of the parties.