

Course Outline

COURSE:	LAWS 3401B – Employment Law
TERM:	Winter 2022
PREREQUISITES:	LAWS 0.5 credit from LAWS 2201, LAWS 2202, LAWS 2501, LAWS 2502, BUSI 2601 and 0.5 credit in LAWS at the 2000 level.
CLASS:	Day & Time: Tuesdays, 11:35-14:25 (synchronous sessions: 12:25-14:25)
	Room: The course is delivered through a blend of asynchronous and synchronous/live sessions. Pre-recorded materials will be provided via Brightspace, and you should engage with them at a time of your choice, though it is strongly recommended you do so before the synchronous/live sessions dealing with the same subject matter. Weekly synchronous/live sessions (via Zoom) are going to take place during the scheduled class time, starting at 12:25pm each Tuesday. <u>Participation in these sessions is mandatory.</u>
INSTRUCTOR:	Dr Ania Zbyszewska
CONTACT:	Office: Room C475 Loeb Building Office Hrs: By appointment (zoom) – feel free to email me to arrange Telephone: N/A Email: ania.zbyszewska@carleton.ca

CALENDAR COURSE DESCRIPTION

Legal regulation of the employment relationship; its contractual basis; defining employment; rights and duties of employees and employers; termination of employment; statutory regulation through employment standards legislation, human rights codes, workers' compensation acts, occupational health and safety and related statutes.

COURSE DESCRIPTION

The primary purpose of this course is to explore the legal regulation of the employment

relationship in Canada at common law and through statutes. Topics will include defining employment; rights and duties of employees and employers; termination of employment; statutory regulation through employment standards legislation, human rights codes, workers compensation acts, occupational health and safety and related statutes. This course does not focus on collective bargaining regimes (see LAWS3405).

The approach in this course is socio-legal and contextual. In addition to looking at the law itself, that is, the common law and statutory norms that regulate employment and other personal work relations, we will also look at their historical development and a range of contemporary critical policy issues related to ever-changing world of work to assess the fit between legal norms and the lived realities of work for a diverse Canadian population.

Assessment in the course ranges from critical reflections on law and policy to practical problems involving application of law to factual situations. The capstone assessment – the Work History Interview: Narrative and Analysis – will also give students the unique opportunity to develop skills and engage in qualitative empirical research.

REQUIRED TEXTS

David J. Doorey, *The Law of Work*. Complete (2nd) Edition (Toronto: Emond, 2020) (print or digital; available for purchase at the bookstore or from publisher's website)

PLEASE NOTE: Detailed schedule of readings from the text, as well as other required readings and materials (e.g. video, audio, etc.) will be placed on Brightspace. Engaging with these materials will be essential for effective participation in discussion and activities during weekly synchronous/live seminar sessions, and for completion of your assessments

SUPPLEMENTARY TEXTS

Students may find it helpful to locate statutes and cases discussed in this course. Some key websites are:

- Department of Justice- Canada (Consolidated Statutes) <https://laws.justice.gc.ca/eng/>
- Ontario Laws – E-Laws: <https://www.ontario.ca/laws>
- Canadian Legal Information Institute (CanLII): <https://www.canlii.org/en/>
- Access WestlawNext on the Carleton University Library website.

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

The assessment and evaluation in this course are structured as follows (see details below):

- 20% Critical Commentary (due 8 February, 11:59pm)**
- 25% Legal Problem Set (due 15 March, 11:55pm)**
- 55% Work History Interview: Narrative and Analysis (various due dates)**
 - a. Preparatory Exercises – 10% (2x5%)**
 - i. Interview memo (due 25 January, 11:59pm)**
 - ii. Draft questionnaire (due 1 March, 11:59pm)**
 - b. Final Narrative and Analysis Submission – 45% (due 12 April, 11:55pm)**

Detailed Description

(Additional instructions and guidelines for each assignment will be posted on Brightspace).

1. Critical Commentary (20%)

Approximately 5 double-spaced pages (12pt, Times New Roman, normal margins)

Write a critical commentary on (a choice of):

- An employment-related legal case, OR
- An academic journal article dealing with an employment law issue, OR
- An employment law issue in the media (press, audio/podcast, TV program), OR
- An employment/employment law issue on film.

In each case, you are required to draw on additional course materials (at least 1 article **and/or** your course textbook) in your interpretation and commentary on the chosen piece(s). **Due on Tuesday, 8 February, 11:59pm.**

See Brightspace for detailed instructions and guidance.

2. Legal Problem Set (25%)

This assignment will require you to apply legal principles and policy considerations we examine in the course to analyze a set of employment-related problem questions. The assignment will be posted on Brightspace by 23 February and will be **due on Tuesday, 15 March, 11:59pm.**

3. Work History Interview: Narrative and Analysis (55%)

This assignment will be an opportunity to develop skills in empirical research and interviewing, and to apply your knowledge of employment law and policy. The task will entail interviewing someone you know about their work history, including the types of jobs (i.e. contracts) they held, relations with employers, and their experiences of transitions in and out of work during different life stages. Drawing on what you learn from the interview and on the course materials, you will then write a narrative (max 4 pages) and analysis (min 7 pages) of your interviewee's work history. In your analysis, you will be asked to focus on the role that legal regulation has played in shaping this person's work experiences. Among others, you will be tasked to think about and consider the different types of legal norms and regimes (common law, statutory, etc.) that regulate work relations in Canada, and in Ontario specifically. Also, you will be asked to reflect on particular circumstances, regulatory gaps and other problems that might affect how someone navigates and experiences the world of work at different life stages or because of their social location.

PLEASE NOTE:

To successfully complete this final assignment, you will be required to complete two preliminary exercises (each involving an activity and a written submission); worth 5% each, for a total of 10% of your final grade in the course. Participation in both these activities is mandatory as the skills you will practice by engaging in them, and feedback you are going to receive on your outputs, are designed to prepare you for the final assignment. While they are worth only 5% each, you must participate in both preparatory activities to be allowed to submit the final assignment. Outputs associated with these preliminary activities are going to have separate deadlines, earlier in the term (25 January and 1 March, respectively).

The final written assignment is due on the last day of classes (10 December), and will be worth 45% of your final grade. The length of your final written submission will be approximately 11-14 double-spaced pp (12pt Times New Roman). As an appendix to this assignment, you will be asked to submit a 'Research Log' composed of your final interview questionnaire, notes from the interview, and a signed consent form. Further details are set out in the guidance document which will be made available Brightspace.

a) Preparatory Exercises and Outputs

- i EXERCISE in **Week 2 (18 January)**. During this exercise, you will informally interview one of your peers about their work experience and encounters with, or knowledge of employment law. You will be assigned your interview partner and the interviews will be conducted online (via video conference or video chat). Time will be set aside during our synchronous session for you to connect.

OUTPUT: You will write a **brief memo summarizing your interview (2-3pp, double spaced)**, which will be **due on Tuesday, 25 January, 11:59pm**.

- ii EXERCISE in **Week 6 (15 February)**. There will be an in-class (online) tutorial on ethical considerations related to interviewing and on the theory and practice of interview as a legal and social research technique.

OUTPUT: You will be asked to **submit a sample interview questionnaire for comments by Tuesday, 1 March, 11:59pm.**

NOTE: *If you are unable to make one of these dates for an important reason or due to mitigating circumstances, please let me know as soon as you can so that we can come up with alternative arrangements.*

b) Final Narrative and Analysis Submission + Research Log

- To complete your final assignment, you will have to carry out **a formal interview with a chosen participant** (see detailed instructions posted on Brightspace on how to go about this choice, when the interview should be scheduled and how it should be carried out, and other details). Based on this interview, you will then prepare **a written submission composed of a brief narrative or employment history portion, and a socio-legal analysis of that narrative**. Your analysis will draw on knowledge of employment law and critical issues related to work regulation that you acquire during the term. In addition, your final submission should also include a 'Research Log' composed of your interview questionnaire, interview notes, and a signed consent form. **The assignment is due on the last day of classes, Tuesday 15 April, 11:59pm.**

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

*Unless you obtain an extension, all late assignments will be subject to a late penalty of **5% per each day after the deadline.***

The granting of extensions is determined by the instructor who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

Extensions for longer than 7 days will normally not be granted. In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

SCHEDULE

DATE	TOPIC	SPECIAL SESSIONS & DUE DATES
January 11	Introduction to Employment Law <i>Reading:</i> D. Doorey, <i>Law of Work</i> (2 nd ed): 1, 2, 3 J. Fudge, "Beyond Vulnerable Workers: Towards a New Standard Employment Relationship", <i>Can Labour and Employment Law Journal</i> 12 (2005): 151-176. Please see other audio materials posted on Brightspace.	
January 18	Workers, Work, Labour Markets <i>Reading:</i> D. Doorey, <i>Law of Work</i> (2 nd ed): 4, 5, 17 Changing Workplaces Review, s. 5.2.1. Definition of Employee Changing Workplaces Review, s. 5.2.2. Definition of Employer Please see other materials on Brightspace	Preparatory Exercise 1: Peer Interview
January 25	Recruitment, Hiring, Employment Contracts	DUE: Interview Memo (5%)
	<i>Reading:</i> D. Doorey, <i>Law of Work</i> (2 nd ed): 6, 7, 8, 9 Please see other materials on Brightspace	
February 1	Key Terms and Conditions: Money <i>Reading:</i> D. Doorey, <i>Law of Work</i> (2 nd ed.): 18 M. Cornish, <i>A Growing Concern: Ontario's Gender Pay Gap</i> . CCPA, 2014 (pp. 1-36). See other materials posted on Brightspace.	

February 8	Key Terms and Conditions: Time	<i>DUE: Critical Commentary (20%)</i>
	<p>Reading: D. Doorey, <i>Law of Work</i> (2nd ed.): 19 J. Cantor, “Working Anything but 9 to 5: Scheduling Technology Leaves Low-Income Parents with Hours of Chaos, The New York Times, August 2014. See other materials posted on Brightspace.</p>	
February 15	Human Rights at Work (Discrimination at Work)	<i>Preparatory Exercise 2: Research Ethics and Interview Methods</i>
	<p>Reading: D. Doorey, <i>Law of Work</i> (2nd ed.): 21, 22. OHRC, Who is Protected at Work? OHRC, Grounds of Discrimination S. MacKinnon, Decolonizing Employment: Aboriginal Inclusion in Canada’s Labour Market, ch 2 (U of Manitoba Press, e book). See other materials posted on Brightspace.</p>	
February 22	NO CLASS/Fall Break	
March 1	Human Rights at Work (Duty to Accommodate)	<i>DUE: Draft Questionnaire (5%)</i>
	<p>Reading: D. Doorey, <i>Law of Work</i> (2nd ed.): 23. <i>BC (Public Service Employee Relations Commission) v. BCGSEU (Meiorin)</i> [1999] 3 SCR 3. See other materials posted on Brightspace.</p>	
March 8	Occupational Health and Safety (Regulation Built on Disasters)	
	<p>Reading: D. Doorey, <i>Law of Work</i> (2nd ed.): 24</p>	

	See other materials posted on Brightspace	
March 15	Occupational Health and Safety (Safety at Work under OHSA)	<i>DUE: Legal Problem Set (20%)</i>
	Reading: D. Doorey, <i>Law of Work</i> (2 nd ed.): 24 See other materials posted on Brightspace	
March 22	Termination of Employment (When Things don't Work Out)	
	Reading: Doorey, <i>Law of Work</i> (2 nd ed): 10,11,12, 15 Ontario Employment Standards Act, Termination of Employment See other materials posted on Brightspace	
March 29	Termination of Employment (When Things go Wrong)	
	Reading: Doorey, <i>Law of Work</i> (2 nd ed): 13, 14, 20 See other materials posted on Brightspace	
April 5	Key Policy Problems: Enforcement	
	Readings: TBA See other materials posted on Brightspace	
April 12	No class/no synchronous session	<i>DUE: Work History Interview Narrative and Analysis (45%)</i>

HOW WILL THIS WORK?

The course will be delivered through a blend of asynchronous and synchronous teaching and learning. Ahead of each week's session, I will post a pre-recorded 'lecture' of about 1hr addressing the key themes for the week and explaining core concepts, doctrines, and principles

in employment law. You will be expected to engage with this material and with the textbook and other readings on your own time; **preferably before our scheduled synchronous session**, though I understand that individual circumstances might necessitate your engagement with this prerecorded material at a different time. In addition, each week, **beginning at 12:25pm on Tuesdays**, we will engage in a synchronous (zoom) discussion, and a variety of exercises, with time for questions relating to the specific subject matter covered that week, as well as more general questions or concerns that might arise. These synchronous sessions will last for about 2hrs (with a break). Attendance is mandatory and engagement with course materials (as listed in Brightspace) ahead of each week's session will be essential for these sessions to work successfully. I trust that together we can make this a rewarding and an enriching learning experience.

University and Departmental Policies

PLAGIARISM

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>.

DEPARTMENT POLICY

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations: <https://carleton.ca/law/student-experience-resources/>.

COVID-19 PREVENTION MEASURES

All members of the Carleton community are required to follow COVID-19 prevention measures and all mandatory public health requirements (e.g. wearing a mask, physical distancing, hand hygiene, respiratory and cough etiquette) and [mandatory self-screening](#) prior to coming to campus daily.

If you feel ill or exhibit COVID-19 symptoms while on campus or in class, please leave campus immediately, self-isolate, and complete the mandatory [symptom reporting tool](#). For purposes of contact tracing, attendance will be taken in all classes and labs. Participants can check in using posted QR codes through the cuScreen platform where provided. Students who do not have a smartphone will be required to complete a paper process as indicated on the [COVID-19 website](#).

All members of the Carleton community are required to follow guidelines regarding safe movement and seating on campus (e.g. directional arrows, designated entrances and exits, designated seats that maintain physical distancing). In order to avoid congestion, allow all previous occupants to fully vacate a classroom before entering. No food or drinks are permitted in any classrooms or labs.

For the most recent information about Carleton's COVID-19 response and required measures, please see the [University's COVID-19 webpage](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@carleton.ca

Please note that failure to comply with University policies and mandatory public health requirements, and endangering the safety of others are considered misconduct under the [Student Rights and Responsibilities Policy](#). Failure to comply with Carleton's COVID-19 procedures may lead to supplementary action involving Campus Safety and/or Student Affairs.

ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details [click here](#).

Academic Accommodations for Students with Disabilities: [The Paul Menton Centre for Students with Disabilities](#) (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation will be provided to students who compete or perform at the national or international level. Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit:
<https://students.carleton.ca/services/accommodation/>.