

THE GIG ECONOMY AND YOUR PROTECTIONS AND RIGHTS

AUGUST 8, 2016

CONFERENCE PROCEEDINGS

Prepared By: Tamar Becker & Aman Rajwani

Ryerson
University

TED
ROGERS
SCHOOL
OF MANAGEMENT

THE TED ROGERS SCHOOL OF MANAGEMENT'S
CENTRE FOR LABOUR MANAGEMENT RELATIONS
AT RYERSON UNIVERSITY

<http://www.ryerson.ca/clmr/>

CLMR
CENTRE FOR LABOUR MANAGEMENT RELATIONS

55 DUNDAS STREET WEST, TORONTO, ON CANADA M5G 2C5 | 416.979.5000 EXT. 2379 / 2495 | CLMR@RYERSON.CA

Table Of Contents



01 ACKNOWLEDGMENTS

- 01 Centre for Labour Management Relations
- 02 Moderators and Speakers

03 EXECUTIVE SUMMARY

- 03 Introduction
- 06 Methodology
- 08 Outcomes

13 OPENING REMARKS

- 24 Session 1: The Gig Economy and Worker Classification
- 37 Session 2 & 3: The Gig Economy and Employment, Labour, and Work regulations
 - 37 Employment Standards Act
 - 52 Labour Relations Act
 - 62 Occupational Health and Safety Act
 - 72 Ontario Human Rights Code
 - 79 Pay Equity Act

- 86 Personal Information Protection and Electronic Documents Act & Freedom of Information and Protection of Privacy Act
- 90 Canada Pension Plan
- 95 Employment Insurance
- 105 Workers' Compensation

108 Session 4: The Gig Economy and Workers' Career Development

- 108 Successfully Navigating an Ever Changing Employment Landscape
- 114 The Evolution of the Career Path
- 118 Skills as Building Blocks in the Gig Economy
- 124 Session 4: The Gig Economy and Workers' Career Development

CENTRE FOR LABOUR MANAGEMENT RELATIONS

The Centre for Labour Management Relations (CLMR) is a multi-disciplinary research centre that seeks to promote collaborative, ethical, innovative, proactive and sustainable best-practices for labour and management to avoid conflicts, build relationships, and create trust in a way that results in greater productivity and profitability for businesses, increased job and income security for workers, and decreased inequality and injustice for all of society.

Since November of 2010 the CLMR has funded 50+ research projects, hosted 60+ events that have produced 10+ publications, affected the learning experience and skills development of 2,000+ students, and has had it's distinguished faculty featured in 100+ academic publications and 600+ media articles. To learn more about the CLMR please visit <https://www.ryerson.ca/clmr/>



BUZZ HARGROVE
Co-Director, CLMR;
Ryerson University,
Buzzhargrove@rogers.com



MAURICE MAZEROLLE
Co-Director, CLMR;
Ryerson University,
mmazerol@ryerson.ca



TAMAR BECKER
Research & Special Projects
Coordinator, CLMR;
Ryerson University,
tamar.becker@ryerson.ca



AMAN RAJWANI
Research & Special Projects
Coordinator, CLMR;
Ryerson University,
arajwani@ryerson.ca

ACKNOWLEDGEMENTS

The CLMR would like to thank the many people who contributed to the "Gig Economy and Your Rights and Protections" conference and these proceedings. The CLMR would also like to convey gratitude to the conference moderators and speakers for taking the time to share their insights and knowledge with us and for agreeing to share their notes and powerpoints.

THANK YOU TO OUR MODERATORS & PANELISTS:



SIMON ARCHER
Associate, Koskie
Minsky LLP



CARRIE BADAME
Relationship Lead of
Career Strategy, Hazell
& Associates



KATHERINE CHAU
Associate, Van
Kralingen Law



MIREILLE GIROUX
Associate, Koskie
Minsky LLP



LEWIS GOTTHEIL
Trade Union Lawyer,
Law Office of Lewis
Gottheil



EMANUELA HEYNINCK
Commissioner,
Ontario Pay Equity
Commission



TIM HUDAK
Member of Provincial
Parliament, Niagara
West, Legislative
Assembly of Ontario



DAN KENNEDY
Manager of Business
Career Hub, Ryerson
University



CAROLINE KONRAD
Director of Career
Centre, Ryerson
University



JOSHUA MANDRYK
Associate, Goldblatt
Partners LLP



MAURICE MAZEROLLE
Co-Director, CLMR
Ted Rogers School of
Management



SARA MOJTEHEDZADEH
Work and Wealth
Reporter, Toronto
Star



STEPHANIE NAKISTAS
Co-Founder, Urban
Worker Project



SIMONE OSTROWSKI
Associate, Koldorf
Stam LLP



ETHAN PHILLIPS
Author, Canada
Fact Check



DAN ROHDE
Staff Lawyer,
Income Security
Advocacy Centre



CARMEL SMYTH
National President,
Canadian Media
Guild



STEVEN TUFTS
Associate
Professor,
York University



MANDY WOJCIK
Partner, Goldblatt
Partners LLP



STEPHANIE WOODWARD
Exec. Director National
Institute on Ageing



ANICA VASIC
Manger of Magnet,
Ryerson University

EXECUTIVE SUMMARY



INTRODUCTION

The recent flood of digital applications like Uber, Airbnb, TaskRabbit, and even Pokemon Go, have opened up unconventional possibilities for work arrangements to expand into new spaces. While these apps generate major excitement and garner much publicity, it's important to note that they're also dramatically changing perceptions of workplaces and the nature of employment.

With the premiere of each new app, new job opportunities are cropping up. However, these jobs no longer fit the traditional model of long-term, nine-to-five careers at one company with benefits / incentives and a broad range of protections and rights guaranteed by various employment, labour and work regulations and plans. Instead, these new job opportunities are short-term, temporary gigs that provide the workers who engage in them with little to no protections and rights.

A main distinction between traditional careers vs. modern gigs is in how the workers are classified by digital applications / employers – either as **employees** or **independent contractors**.

An employee is a person who is hired for a wage, salary, fee or payment to perform work for an employer. In Ontario workers who are classified as employees receive protections and rights through a

broad range of:

- Regulations, such as the:
 - Employment Standards Act (ESA),
 - Labour Relations Act (LRA),
 - Occupational Health and Safety Act (OSHA),
 - Ontario Human Rights Code (OHRC), and the
 - Pay Equity Act (PEA);
 - Personal Information Protection and Electronic Documents Act (PIPEDA) & Freedom of Information and Protection of Privacy Act (FIPPA); and
- Plans, such as the:
 - Canada Pension Plan (CPP),
 - Employment Insurance (EI), and
 - Workers' Compensation (WC).

On the other hand, an independent contractor can be a person, business or corporation that provides goods and services to another entity under terms specified in a contract or verbal agreement. In Ontario workers who are classified as independent contractors receive little to no protections and rights from the same regulations and plans that were previously mentioned.

The difference between being classified as an employee vs. an independent contractor is not only



relevant to workers – who may have to navigate an unexpected employment landscape than what they are likely familiar with – but to digital applications / employers and governments as well. It is vital for digital application / employers to be aware of and understand what protections and rights are available to employees vs. independent contractors, because misclassifying their workers can be extremely costly in the event that they are later found to be responsible for making back-dated social security and tax contributions, deductions and payments. A similar understanding is crucial for governments as the majority of the work that independent contractors perform is considered to be precarious employment that is often reserved for vulnerable workers. When combined, these factors can increase mental and physical health risks, and economic instability and income inequality, for these workers who may have to turn to government programs for assistance and support.

In the United States a study by Katz and Krueger found that the percentage of workers engaged in alternative work arrangements (e.g., contract workers, freelancers, independent contractors, on-call workers, and temporary help agency workers) rose from 10.1% in February 2005 to 15.8% in late 2015¹.

In Canada, the Statistics Canada Labour Force Survey found that full-time employment fell by 71,000 jobs from June to July, while part-time work rose by 40,000 jobs². A historical summary of self-employment reported that 2.52 million workers were self-employed in 2005 and this number rose to 2.76 million by 2015³.

In Ontario, a report by the Workers Action Centre found that 41% of work was done outside of traditional standard, full-time, permanent employment in 2015⁴. The Ministry of Labour's Inspection blitz – which focused on precarious

employment – found that 78% of workplaces were in violation of the ESA in the summer of 2015⁵. The Toronto Star found that 22% of Ontario workers are not fully protected by employment laws because of exemptions, and 77% of precarious workers do not get benefits through their jobs⁶.

These numbers confirm an increase in our economies shift towards modern gigs, and there appears to be no sign of this trend slowing down.

As we move into a new world of work we must ask ourselves if the societal values that drove the need for establishing our current employment, labour and work regulations and plans can complement these new forms of working relationships, or if stakeholders must come together in a collaborative, ethical, innovative, proactive and sustainable way to develop contemporary solutions to these old issues.

¹ Katz, L., & Krueger, A. (2016, March 29). The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015.

² Statistics Canada. (2016). Labour Force Survey, July 2016. Component of catalogue no. 11-001-X.

³ Statistics Canada. (2016). Self-Employment, Historical Summary. CANSIM, table 282-0012 and Catalogue no. 89F0133XIE.

⁴ Gellatly, M.. (2015, March). Still Living on the Edge: Building Decent Jobs from the Ground Up. *Workers' Action Centre*.

⁵ Mojtehdzadeh, S. (2016, January 20). Inspection blitz finds three-quarters of bosses breaking law. *The Toronto Star*.

⁶ Mojtehdzadeh, S. (2016, July 27). Workplace violations widespread in Ontario, government report says. *The Toronto Star*.



41%

OF EMPLOYMENT IS
PART-TIME OR
CONTRACT WORK

2.52

MILLION

WORKERS WERE
SELF-EMPLOYED IN
2005, WHICH
INCREASED TO

2.76

MILLION
BY 2015

77%

OF PRECARIOUS
WORKERS DO NOT
GET BENEFITS
THROUGH THEIR
JOBS

78%

OF WORKPLACES
WERE IN
VIOLATION OF THE
ESA IN THE
SUMMER OF 2015

IN THE U.S. THE NUMBER
OF WORKERS IN
ALTERNATIVE WORK
ARRANGMENTS ROSE
FROM

10.1%

IN 2005 TO

15.8%

IN 2015

71K

FULL-TIME JOBS
ELIMINATED

40K

PART-TIME JOBS
CREATED

22%

OF ONTARIO WORKERS
ARE NOT FULLY
PROTECTED BY
EMPLOYMENT LAWS
BECAUSE OF
EXEMPTIONS



METHODOLOGY

On August 08, 2016 the CLMR brought together over 20 speakers from academia, community groups, government, industry, labour, law, and the media, as well as over 100 representatives from various stakeholder groups, for a one-day conference that explored:

1. Which legislative protections and rights are available to workers in the gig economy?
2. If and how employment, labour and work regulations and plans apply to these workers?
3. How stakeholders can advance strategies to provide protections and rights to all workers?
4. What workers need to know to succeed?

The contents of these conference proceedings capture, distil, and build on the insights and knowledge of these speakers, who were all asked to prepare individual presentations based on their areas of expertise and also to participate in semi-structured panel discussions. This methodology was selected to produce an in-depth macro-qualitative analysis of the questions previously posed by having speakers examine them through a broad range of stakeholder perspectives and various macro-environmental factors (e.g., cultural, economic, legal, regulatory, social, and technological).

The conference was divided into three key sessions. Descriptions and goals for all key sessions are

provided below.

Session 01: The Gig Economy and... Worker Classification

Understanding the differences between being classified as an employee vs. an independent contractor is important for workers as most employment, labour and work regulations and plans are predicated on a traditional employer – employee relationship, which may not exist in the gig economy.

This session sought to:

1. Explore the differences between employees and independent contractors;
2. Discuss whether workers in the gig economy are employees or independent contractors;
3. Distinguish between the protections and rights available to these workers, and
4. Identify which steps stakeholders can take to extend protections and rights to all workers regardless of their classification.



Sessions 02 and 03: The Gig Economy and... Employment, Labour and Work Regulations

These sessions:

1. Introduced a variety of employment, labour and work regulations and plans, and discussed if and



how these applied to the gig economy.

2. Explored potential opportunities and risks for stakeholders who may or may not be covered by these regulations and plans; and
3. Identified which steps stakeholders can take to extend protections and rights to all workers regardless of their classification.

Session 04: The Gig Economy and... Workers' Career Development

The gig economy has seen a rise in positions, which are neither permanent nor full-time; yet many individuals are choosing to participate in these employment arrangements, viewing them as opportunities to maximize unused assets, earn disposable income, and develop themselves professionally.

This session sought to:

1. Understand how workers in the gig economy can better leverage their short-term experiences to achieve their long-term goals;
2. Discover what new tools and / or training workers require to not only move from gig to gig but rather from gig to career; and
3. Discuss what role stakeholders can play in supporting the career development of workers in the gig economy.



OUTCOMES

In examining the growth of the gig economy it is important to begin by differentiating between:

- **Technological factors** – which are opening up unconventional possibilities for short-term, temporary gigs to expand into new spaces;
- **Cultural and social factors** – which are normalizing short-term, temporary gigs as workers see few other options to earn incomes / enter the labour market; and
- **Legal and regulatory factors** – which are encouraging a rise in short-term, temporary gigs that are driving increased economic instability and income inequality by providing the vulnerable workers who engage in them with low wages and little to no legislative protections and rights.

The mechanism through which digital applications have used these factors to drive their business models has been through the practice of classifying their workers as independent contractors. By classifying their workers as independent contractors, digital applications can avoid the direct financial costs of compliance with employment, labour and work regulations and plans.

In addition to employees and independent contractors, a third option for classifying workers –

dependent contractors – also exists. This intermediary option allows digital applications / employers to classify their workers somewhere in between the spectrum of being considered an employee and an independent contractor. In this way digital applications / employers can offer flexible non-standard jobs to workers who desire these employment arrangements while at the same time providing said workers with some degree of civil, employment, health, and labour protections and rights.

Below are brief summaries of the employment, labour and work regulations and plans that were examined, and short descriptions regarding their applicability to workers in the gig economy.

The **Employment Standards Act (ESA)** (provincial) sets out minimum standards (e.g., hours of work, minimum wages, overtime pay, public holidays, paid vacation, termination pay, and severance pay) that employers and employees must follow. The ESA applies to employers and employees, but doesn't apply to independent contractors or dependent contractors. The definitions for employers and employees under the ESA are typically non-exhaustive and rely on various common law tests and key considerations.

The **Labour Relations Act (LRA)** (provincial) facilitates collective bargaining between employers





and trade unions. The LRA applies to employees, but has a broad definition of employees that includes dependent contractors. This is interesting as – for the purposes of organizing a union and bargaining collectively – a bargaining unit consisting of solely dependent contractors can be deemed by the Ontario Labour Relations Board to be a unit of employees appropriate for collective bargaining. Additionally, dependent contractors may be included in a bargaining unit with other employees if the Board is satisfied that a majority of the dependent contractors wish to be included in the bargaining unit. The definition for dependent contractors under the LRA relies on considerations and factors from previous Board rulings.

The **Occupational Health and Safety Act (OHSA)** (provincial) guarantees a minimum level of protection for the health and safety of workers. The OHSA imposes enforceable duties and responsibilities on all workplace parties (e.g., employers, workers, supervisors, owners and others), while making it clear that employers have the greatest responsibility for health and safety in workplaces. The OHSA applies to employers and employees, and its definition of an employer is broad enough that it can include employers of independent contractors – which in some instances may be consumers of goods and services in the gig economy. The OHSA’s definition of an employee is also broad enough that it can include independent contractors.

The **Ontario Human Rights Code (OHRC)** (provincial) prohibits actions that discriminate against people based on a protected ground in a protected social area, including a wide range of employment situations (e.g., pre-employment, post-employment, non-traditional work environments, and guests, clients and patrons in workplaces). The OHRC does not distinguish between employees, independent contractors and dependent contractors. Instead, it simply states that every person has a right to equal treatment with respect to employment without discrimination.

The **Pay Equity Act (PEA)** (provincial) address the undervaluation of work historically performed by women. The PEA does not define employees or employers. Its lack of definitions allows room for the interpretation and inclusion of many employment arrangements (e.g., dependent contractors, franchises, and temporary help agencies) on a case-by-case basis. However, it does not cover work relationships centered on the individual (i.e., independent contractors).

The **Personal Information and Protection of Privacy Act (PIPEDA)** (federal) protects personal information that private sector organizations collect, use, and disclose during the course of commercial activity, and it protects personal information about an employee of, or an applicant for employment with, a federally regulated business. PIPEDA applies



to employees, and although it does not expressly set out that its protections for employees also covers other workers it does include independent contractors under a section that protects whistleblowers from workplace reprisals. The **Freedom of Information and Protection of Privacy Act (FIPPA)** (provincial) provides a general right of access to privacy information held by public sector institutions, and it protects the privacy of individuals. FIPPA applies to employees, and it does not expressly set out that its protections for employees also covers independent contractors.

The **Canada Pension Plan (CPP)** (federal) is a source of retirement income for workers in Canada, which involves employers and employees each contributing approximately 5% of the employee's annual earnings to a nationally administered pension fund. Independent contractors who would like to opt-in to the CPP must make both the employer and employees' contributions (i.e., approximately 10% of the independent contractors annual earnings).

Employment Insurance (EI) (federal) is a source of temporary financial assistance, which involves employers and employees each contributing to a program that provides benefits for workers who lose their jobs, cannot work because of sickness, take time off to be with new born children / care for ill family members, and are parents of critically ill children. Independent contractors who would like to opt-in to EI can only do so for certain benefits after meeting certain conditions.

Workers' Compensation (WC) (provincial) is a source of no-fault loss of income payments, supplementary health benefits, and return to work vocational training for workers who are injured or contract a disease in the course of employment. Anyone who is employed by, is a student (both paid and unpaid interns) with, or is a seasonal worker for an employer that is covered under Schedule 1 or Schedule 2 of the Workplace Safety and Insurance

Act is eligible to receive WC. Independent contractors, sole proprietors, partners in a partnership, and executive officers in a corporation are not automatically covered by WC, but they can opt-in and pay premiums to access these benefits.



Options for stakeholders to consider when extending protections and rights to all workers can include:

1. **Creating** provisions for independent contractors / dependent contractors in current regulations while leaving the option open for further regulations to be passed, if necessary, to exempt particular workers from a regulation or to create a different standard that would apply to some workers;
2. **Developing** an equitable and expedited complaints and appeals process – with the possibility of guaranteeing the anonymity of complainants – for workers who have limited resources (e.g., money and time) and who may fear retaliation when seeking legal recourse through traditional remedies (e.g., standards complaints, small claims court actions, and class action law suits);
3. **Educating** students and urban workers before they choose a career path where they may be classified as independent contractors on 1.) the differences in the protections and rights between



employees and independent contractors, and 2.) alternative options to access comparable rights and protections (e.g., opting-in to optional EI and WC coverage);

4. **Encouraging** employers to adjust their recruitment and selection processes so that less importance is placed on time spent in roles, past employers' reputations, and previous job titles, and greater weight is assigned to skills developed and accomplishments achieved
5. **Ensuring** the broadest possible interpretation of workplace relationships (i.e., definitions for employers and employees) in current employment, labour and work regulations and plans;
6. **Extending** collective bargaining rights by sector that would allow an applicant to receive certificates on fixed-term / renewable licenses so that they can bargain on behalf of all workers in that sector, with a view of making a scale agreement that would define the minimum terms and conditions for the provision of these workers services and related matters. Individual workers would then be free to negotiate personal services contracts above the minimums established in the scale agreement. Applicants would have to demonstrate that they are the most representative of the workers in their sector, but they would not have to demonstrate the requirement to show majority support;
7. **Forming** an association or union that would

manage the administrative responsibilities associated with enrolling gig workers into optional insurance programs and advising them on their protections and rights;

8. **Introducing** sectorial bargaining with multiple digital applications / employers that would extend the benefits employees receive through labour negotiations between their employers and trade unions outside of their workplaces to all workers who perform similar work within said sector – regardless of how these workers are classified or their status in a trade union;
9. **Investing** in research that would provide stakeholders with real time data to develop regulations and plans that reflect current labour market demographics and macro economic factors (e.g., cultural, economic, legal, regulatory, social, and technological);
10. **Opening** formal channels of communication / democracy between digital applications and policy makers with students and urban workers;
11. **Producing** standards for digital applications / employers to report on worker classification figures within their organizations – where the onus of classifying workers would fall on the digital applications / employers and not on the workers – which would be accompanied by inspections and fines; Alternatively, introducing an internal responsibility system within digital applications / employers with checks and balances for all parties in the working relationship to ensure everyone has been accurately classified and is receiving legislative or comparable protections and rights; and
12. **Prohibiting** digital applications and restricting certain activities until new regulations and plans that would specifically address the protections and rights of independent contractors and dependent contractors are legislated.



- opportunities to develop skills and achieve accomplishments that they believe future employers would be interested in, and not necessarily selecting gigs because they may pay a little more than other available options; and
6. **Seeking** gigs that provide them with benefits and perks outside of the current norm, which may begin to occur more frequently as new digital applications / employers enter the market and compete for the same supply of talent.

Workers in the gig economy can better leverage their short-term experiences to achieve their long-term goals by:

1. **Accessing** free resources in communities and universities that could provide them with 1.) financial literacy education, 2.) information on their employment, labour and work protections and rights, and 3.) guidance on what they may be gaining / giving up should they decide to pursue careers where they will be classified as independent contractors;
2. **Changing** their approach to communicating their skills and accomplishments, as focusing on time spent moving from short-term gig to short-term gig may not be as effective as narrating a story around the reasons why they participated in those gigs or how they can use their skills and accomplishments to shape their future success;
3. **Leveraging** modern technologies to match their defined skills sets with the requirements of digital applications / employers who are searching for talent;
4. **Networking** with like minded gig workers and seeking mentorships with professionals who have established careers in the gig economy to build a social network that could notify them of future opportunities, discuss challenges they are facing, and help them to combat professional isolation;
5. **Participating** in gigs that provide them with



OPENING REMARKS

STEPHANIE NAKISTAS

CO-FOUNDER, URBAN WORKER PROJECT

@UrbanWorkerCA



Stephanie has worked as a campaigns director, communications freelancer, program coordinator and contract teacher. She helped found the Urban Worker Project to give a stronger voice to the growing number of independent workers across the country.

She has a wide range of experience developing, overseeing and winning grassroots campaigns. As a passionate feminist and advocate for social and economic justice, Stephanie has used her experience to mentor new activists and leaders.

Stephanie has a Masters of Political Science and Bachelor of Education from York University. When she's not working, she's volunteering for her neighbourhood's pop-up shop program or hanging out with her partner and daughter.

OPENING REMARKS



**WORK HAS CHANGED.
LET'S MAKE IT
WORK FOR US.**

URBANWORKER.CA

THE URBAN WORKER PROJECT

We started the Urban Worker Project to give a stronger voice to the growing numbers of freelance, self-employed and contract workers across the country.

Work has changed. Recent studies show that over 50% of all new Canadian jobs are part-time, temporary, on contract, freelance or self-employed positions. That means that more and more of us are working outside of traditional employee-employer relationships, or working a number of different jobs. We've seen in studies that this trend is heightened among women and racialized workers. Most of these jobs come without things like parental leave, health benefits, or workplace protections; not to mention access to income security measures so you don't go broke between jobs.

OPENING REMARKS

**MORE THAN 40 PER CENT OF
PEOPLE EMPLOYED IN THE
KNOWLEDGE OR CREATIVE
SECTORS ARE IN PRECARIOUS
OR VULNERABLE WORK**

SOURCE:
United Way, McMaster University, PEPSO report

find out more at **URBANWORKER.CA**

There's no sign of this trend slowing down. In the arts and culture, tech, knowledge, not-for-profit and service sectors this is the new normal. We also know that we still don't have the full picture because how people work isn't being properly captured at the moment by our census data or government employment surveys.

We started the Urban Worker Project because we believe that we can build a better future for urban workers by coming together and taking political action on issues like improved access to health and dental benefits that aren't tied to having one employer, advocating for better protections under the law for contract and freelance workers and more.

So far we've had over 3,500 urban workers sign up across the country since we launched in April and have had hundreds attend our events in Toronto, Vancouver and Ottawa.

OPENING REMARKS

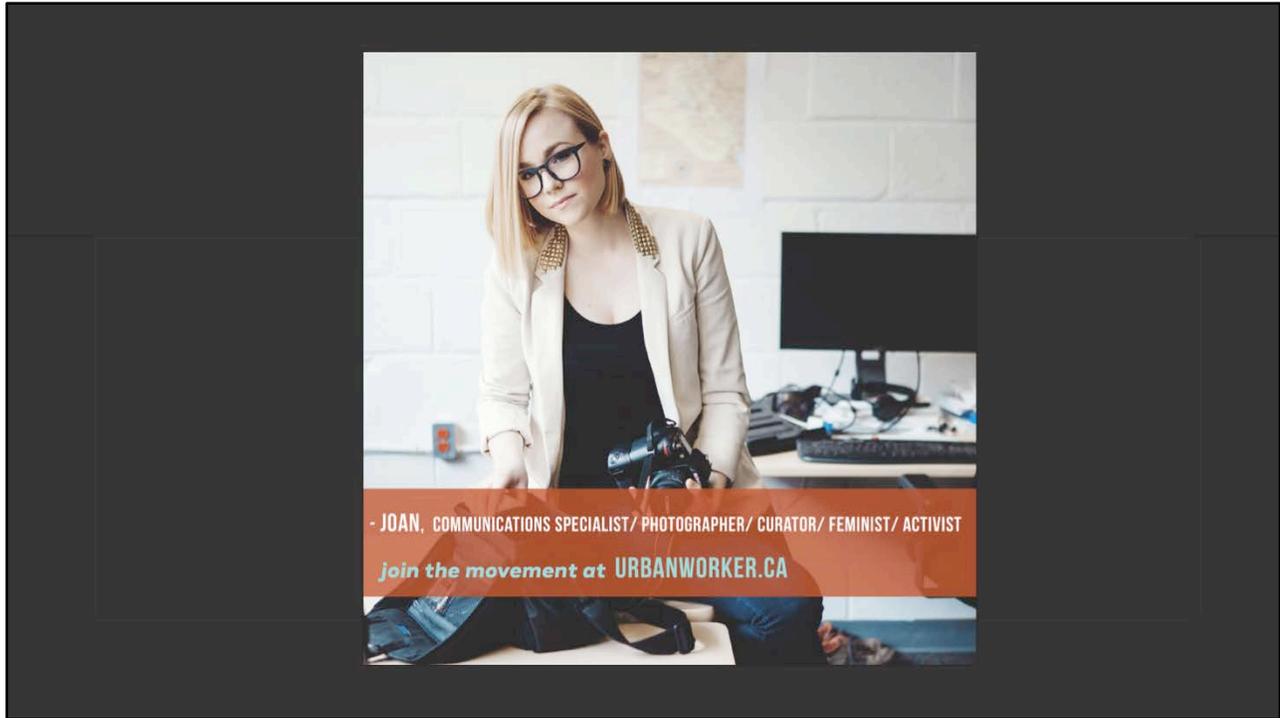
MEET SOME OF THE PEOPLE WHO ARE PART OF THE URBAN WORKER PROJECT...

What is life like working in the gig economy?

Are people choosing to work this way?

There are a lot of misconceptions about what life is like for those of us working in the gig economy. Things can appear fine on the surface – like we’ve all chosen a glamorous life of working in coffee shops on our macbooks, but what’s often hidden is the fact that most of us have tens of thousands of dollars of student debt, are spending the majority of our income on housing, and that many urban workers are supporting their parents or have children themselves. All of this is incredibly stressful when you can’t predict your income month to month

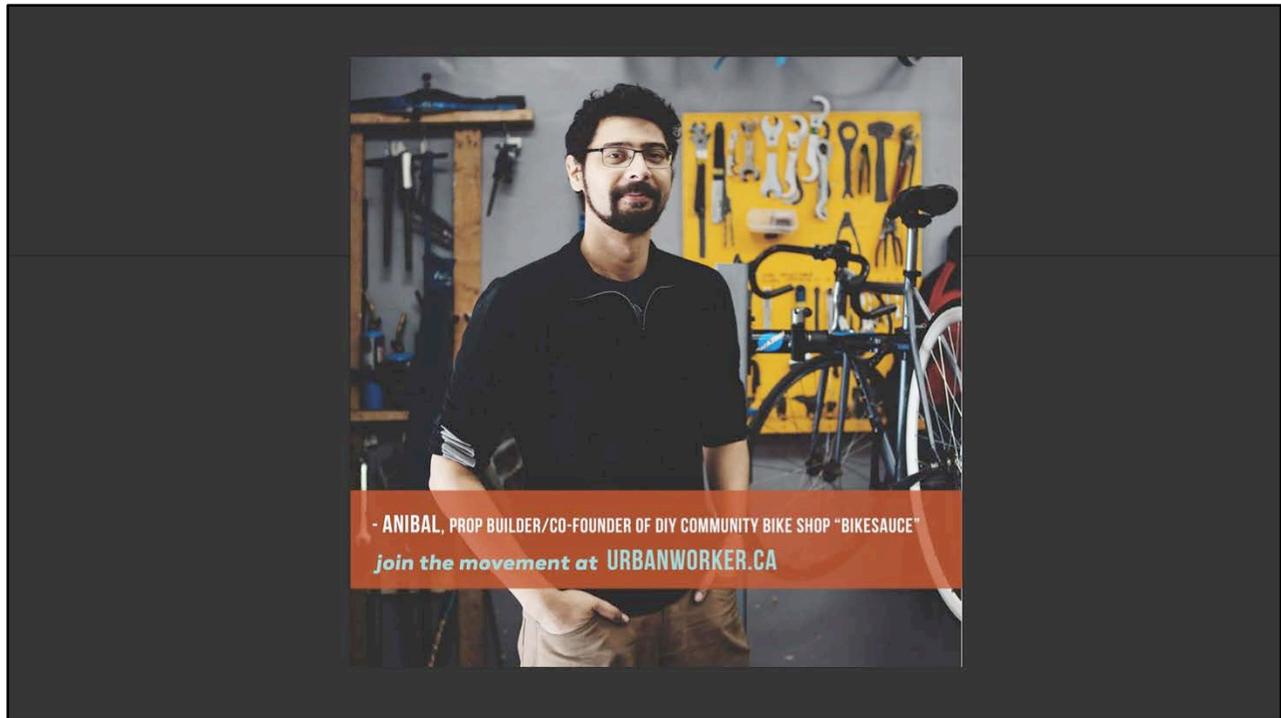
OPENING REMARKS



Joan, communications specialist/photographer/curator/feminist

Joan moved to Toronto from a small town almost 10 years ago to study art. Right now she works on contract doing design work for a community newspaper on top of freelancing to making ends meet every month. She feels lucky to be able to make a living doing creative and community work but there are definitely challenges that come along with that - like not qualifying for health benefits, vacation time and sick pay. She believes working contracts shouldn't mean she isn't entitled to the same supports enjoyed by those with full-time employment.

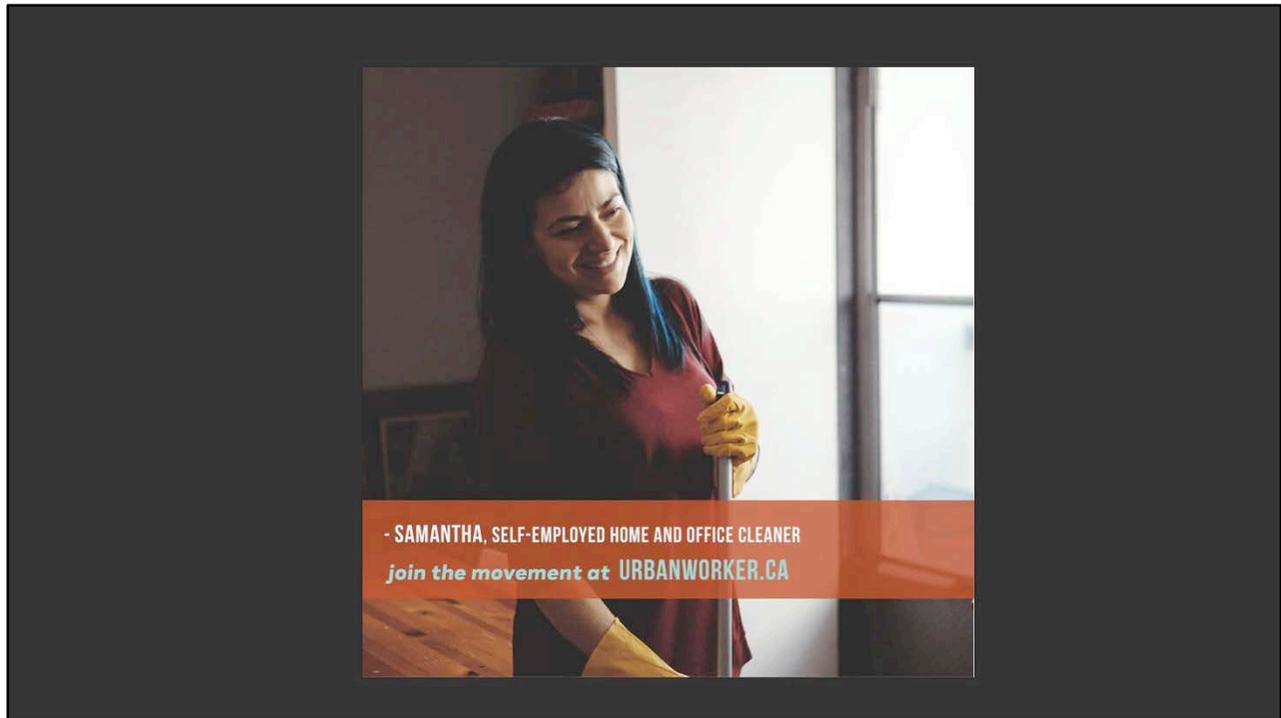
OPENING REMARKS



Anibal, prop-builder and co-founder of DIY community bike shop "bikeSauce"

Anibal loves the freedom that comes from his schedule as a prop builder. He told us "I couldn't have helped start Bikesauce or make my stop motion animation movie if I didn't have the flexibility with my other work." There are a number of huge stresses that come from working this way, however. Health being a big one. He told us he hasn't had his prescription renewed for the last three pairs of glasses and can't go to the dentist as often as he should. He's only had a job with benefits once in his life. It was a three month gig.

OPENING REMARKS



Samantha, self-employed home and office cleaner

She loves that she works independently and sets her own schedule so she can be with her kids after school. The financial insecurity that comes from working this way can be stressful though. She told us: "If financial circumstances change with my clients, my service is the first to go. I don't have a safety net. I don't have a retirement fund."

OPENING REMARKS



Top Issues Survey – We currently conducting a national survey of freelance, self-employed and contract workers. We’re asking people to identify the top issues they face as urban workers. Is it getting paid on time? Making sure they can access parental leave? Getting better access to health and dental benefits? Income security between jobs?

Our power as a movement comes from having thousands of us speaking up about the issues we face and collectively calling for solutions that will make life better for us in the new economy. The results of the survey will help us determine what issues we take on.

Note: To date we’ve had over 500 complete the survey. 81% of respondents say they need better access to health and dental benefits. The survey will continue to be live for the rest of the summer.

OPENING REMARKS

WORK HAS CHANGED. LET'S MAKE IT WORK FOR US.

- We need a policy framework that reflects the reality of work in the 21st century
- If workers in the gig economy are better protected, it could be better for our economy as a whole

We need to develop a new policy framework that reflects the reality of work today. We need to consider the experiences and challenges facing urban workers when we are creating new laws or programs to support or protect workers.

We have a huge opportunity right now in Ontario with the Changing Workplace Review commissioned by the Ontario Government to look at how to change our employment laws to reflect the needs of workers in today's economy.

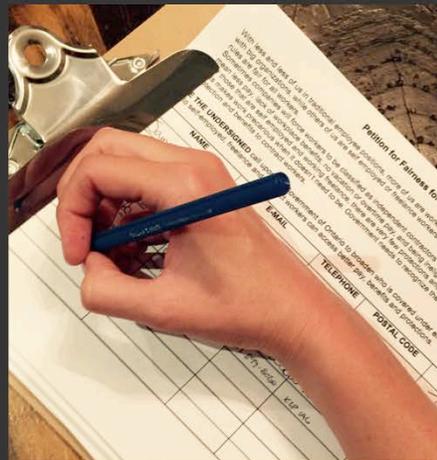
OPENING REMARKS

OUR FAIRNESS FOR CONTRACT WORKERS CAMPAIGN

Our Petition:

We're calling on government to broaden who is covered under the employment standards act so that solo self-employed, freelance and contract workers can access better benefits and protections.

www.urbanworker.ca/fairness_for_contract_workers



Our Fairness for Contract Workers Campaign calls on the government to broaden who is covered under the employment standards act so that contract workers can access better benefits and protections.

OPENING REMARKS



Are you making policy decisions that impact independent workers?

Make sure you are talking to those workers!

How are their experiences and ideas informing your decision making?

Will these policies be able to support workers 10 years from now and beyond?

One last thing to remember: If you are making policy decisions that impact independent workers, make sure you are talking to those workers.

THE GIG ECONOMY AND... WORKER CLASSIFICATION

ETHAN PHILLIPS

AUTHOR, CANADA FACT CHECK

[@Canadafactcheck](#)



Ethan Phillips is an independent public policy consultant and Editor of Canada Fact Check, an online news site covering provincial and federal politics. For 14 years until mid-2015, Ethan was a researcher with the Ontario New Democratic Party at Queen's Park specializing in labour, economic and energy issues and responsible for the analysis of all government bills for the NDP Caucus in these issue areas as well as the development of Private Members' Bills for individual NDP MPP's.

Between 1995-2001, Ethan did a wide range of consulting in the areas of pension, labour and economic policy for business, labour and non-profit groups. Between 1990-1995, Ethan served in the Ontario Public Service and was responsible for the development and delivery of a number of the government of the day's job creation programs.

THE GIG ECONOMY AND... WORKER CLASSIFICATION

I want to start off by making a distinction between the growth of what might be called the digital platform economy and the growth of the gig economy.

The growth in the digital platform economy is being driven by companies such as Google, Facebook, Amazon, Apple, Netflix and Uber. These companies have created digital platforms that transform the way people work, shop, vacation, date, stay in foreign cities and get around their own cities.

There is considerable evidence that the trend towards the digital platform economy is unstoppable. There is also evidence that these digital platforms have the potential to improve our lives and be a source of equitable economic growth.

In contrast, the growth of the gig – or on-demand - economy represents an increase in the kind of non-standard, precarious work that is driving increased inequality and economic instability.

The key take-away here is that the gig economy is **not** an inevitable by-product of the growth of the digital platform economy. The problem as I see it is that the corporate drivers of the platform economy – and some more than others – have embraced a business model that at its core, is hostile to the kind of regulatory regimes that support an equitable distribution of the wealth flowing from the efficiencies generated by these digital platforms.

In other words, while it is entirely possible that with the right policy choices the growth of the platform economy can go hand in hand with the growth of good quality jobs with good benefits, the policy agenda being pushed by the digital platform giants reinforces the trend towards precarious work and economic vulnerability for a growing number of workers.

Uber is a good example of the hostility to regulations baked into the business models of many of these digital giants. Uber's aversion to existing regulatory regimes has taken the form of: 1) elaborate off-shore [Corporate Income Tax avoidance schemes](#), 2) the avoidance of direct payment of sales taxes such as the HST; 3) a refusal to play by the same rules that their competitors in the established taxi industry competitors play by; and 4) and most importantly for the purposes of this conference, a refusal to have their drivers classified in such a way that they are covered by workplace protection legislation.

With respect to this last point, the specific mechanism by which Uber and some other digital platform companies have encouraged the growth of precarious work is through the practice of classifying their drivers as "independent contractors" as opposed to employees.

For Uber, treating their drivers as independent contractors is at the very heart of their business model. In fact, [Forbes magazine has estimated](#) that Uber avoids paying \$4.1 billion *annually* in employee benefit costs by categorizing its drivers as independent contractors as opposed to employees.

In Ontario as in many jurisdictions, the Employment Standards Act makes a sharp distinction between employees and independent contractors. Many employers – and of course not just the owners of digital platforms – have figured out how to exploit this distinction. They hire people who do the work once done by people classified as employees, but then re-classify them as independent contractors or as somebody else's employees. The result is that these workers lose their employment benefits and lose the stability of guaranteed

THE GIG ECONOMY AND... WORKER CLASSIFICATION

work.

This brings us to the discussion of this very topic provided by the Ontario Changing Workplaces review which issued an interim report on July 27.

The report correctly identified 2 separate issues related to the employee/independent contractor distinction:

1. the misclassification of employees as independent contractors; and
2. the inadequacy of the current definition of employee in the Employment Standards Act.

With respect to the issue of misclassification, businesses that misclassify employees as independent contractors avoid the direct financial costs of compliance with the ESA and other employment related legislation.

According to the interim Changing Workplaces report, the costs avoided by such employer misclassification include:

- 4% vacation pay;
- approximately 3.7% of wages for public holiday pay;
- overtime pay;
- termination pay;
- severance pay; and
- premiums for Employment Insurance (EI) and the Canada Pension Plan.

Moreover, employees who are misclassified as independent contractors are denied health benefit coverage where such coverage is offered by an employer.

The bottom line is that misclassification has a significant adverse impact on those Ontario workers who are labelled independent contractors who should really be classified as employees.

The second issue discussed in the report involves the definition of employee in the Employment Standards Act. Again, the ESA applies only to workers defined as "employees". And again, for the purposes of the ESA, independent contractors are not employees.

In essence, the Changing Workplaces report correctly argues that the stark distinction between employee and independent contractor no longer captures the reality of the Ontario labour market. The report describes this changed reality extremely well and is worth quoting.

According to the interim report:

"Over time, the Ontario economy has grown more sophisticated, workplaces have fissured and a spectrum of relationships and arrangements has evolved between workers and employers ranging from standard employment relationships at one end of the spectrum to independent contractors at the other. The result of these changing relationships is that the old definitions are not well suited to the modern workplace. Not every worker fits neatly into the category of employee or independent contractor. Within this spectrum, there are those whose relationship is more like a traditional employment relationship than that of an independent contractor and who are deprived of the protection of the ESA."

THE GIG ECONOMY AND... WORKER CLASSIFICATION

The Changing Workplaces report goes on to cite Ontario common law as having long recognized that there is a category of worker who is not a traditional employee and is not an independent contractor but who is entitled to some of the protections of an employee such as reasonable notice of termination of employment. In fact, as recently as April, 2016, [the Ontario Court of Appeal concluded](#) that an intermediate category between employee and independent contractor exists – a *dependent contractor*. In commenting on the April, 2016 *Keenan v. Canac Kitchens Ltd.* decision, employment lawyer Andrew Monkhouse writes:

“More and more, the courts are willing to give dependent contractors the same benefits, the same treatment, and the same (or even longer!) notice periods as employees. Workers may not need to be entirely exclusive to one employer for the court to deem them dependent contractors. An overall context will be considered”.

Presently, the Ontario Labour Relations Act contains a provision that states that the definition of an “employee” includes a “dependent contractor” but there is presently **no provision** in the ESA equivalent to the dependent contractor provision in the Labour Relations Act.

The Changing Workplaces report poses 2 policy options related to the definition of employee in the ESA. These are:

- Maintain the status quo.
- Include a dependent contractor provision in the ESA, and consider making it clear that regulations could be passed, if necessary, to exempt particular dependent contractors from a regulation or to create a different standard that would apply to some dependent contractors.

Clearly, there is a compelling case to be made for enshrining the notion of a dependent contractor in the ESA. And given the interim report’s clear recognition of the inadequacy of the stark employee vs. independent contractor distinction, one might think that a strong recommendation calling for a robust dependent contractor provision in the final report would be a no brainer.

But assuming that the status quo on the independent contractor loophole in the ESA can’t possibly hold would be extremely naïve.

Within hours of the release of the interim Changing Workplaces report, a group calling itself *Keep Ontario Working* issued a press release which warned:

“At a time when costs for consumers and the costs of doing business in Ontario are rising, government must consider the impact these changes will have on Ontario's competitiveness and workers. Changes to the Ontario Labour Relations Act and the Employment Standards Act will have implications for Ontario's economy, and that's why it's time to identify barriers to growth and recommend policies that will give businesses and their workers room to grow.”

Keep Ontario Working is, of course, a coalition of business associations. Amongst the many business associations that comprise its membership are the Ontario Chamber of Commerce, the Retail Council of Canada, the Ontario Forest Industry Association and the Ontario Restaurant, Hotel and Motel Association. To

THE GIG ECONOMY AND... WORKER CLASSIFICATION

say the least, these are organizations that have considerable clout with government.

And the Keep Ontario Working coalition is only the tip of the iceberg when it comes to business lobbying *against* any proposed changes to the OLRA and ESA that would reverse the trend towards precarious work and provide greater protection for exploited workers.

Within days of the release of the interim report, almost all the large corporate law firms had issued communiques to their corporate clients urging them to express their concerns related to many of the policy options presented in the interim report. Typical of these communiques is the one issued by Miller Thomson, a large Bay St. law firm, suggesting that “employers should seriously consider expressing their opinions and concerns to the Special Advisors before the relevant deadlines.”

Not surprisingly, amongst the Changing Workplaces options the Miller Thomson communique highlighted as a source of concern for employers, was the inclusion of a “dependent contractor” provision in the Employment Standards Act that would allow many of the workers who are now wrongly classified as independent contractors at least some of the protections granted employees in the ESA.

I began this presentation by making a distinction between the platform economy and the gig economy and made the point that with the right policy choices, Ontario can enjoy the benefits of the digital platform economy without experiencing the inevitable increase in precarious work that the platform economy will drive if our labour laws are not substantially reformed.

The interim Changing Workplaces report covered virtually every substantial issue in employment standards and labour relations law. And on almost every issue the report addressed, it provided an option to allow for the status quo to stand as well as options that would substantially increase workplace protections.

Ontario has the opportunity to be a model of how the digital platform economy can co-exist with good quality jobs with good benefits.

But do not expect any help from the major digital platform players nor from any of the major business lobbying groups in achieving this goal.

They will be fighting hard for the status quo options every step of the way.

THE GIG ECONOMY AND... WORKER CLASSIFICATION

CARMEL SMYTH

NATIONAL PRESIDENT, CANADIAN MEDIA GUILD

[@CarmelCMGpres](#)



Carmel Smyth is an award-winning journalist with a career in radio and television, producing Talk Radio at CKNW Vancouver, reporting news for CBC Television in Toronto, Saskatchewan, and Newfoundland and Labrador, and producing documentaries for CBC's flagship national investigative program Marketplace.

Since 2010, Carmel has served as the National President of Canada's largest media union representing 6,000 journalists and media workers at ten media organizations across Canada, including the CBC. She is a five-time Iron-Woman and marathon runner.

THE GIG ECONOMY AND... WORKER CLASSIFICATION

Ironically, at a time when young Canadian workers are the most educated, multi-skilled, and in many cases politically engaged, the chance of finding a full time job with benefits, a pension and a living wage, is increasingly elusive.

There is general understanding of the impact of technological change, globalization, and other economic factors in the making of this state of affairs, but wearing my union hat, I also blame the wide acceptance of a system that insists on maximizing profit no matter what the costs are: *Why settle for a healthy profit, when you can squeeze out more, regardless of the negative and long terms impacts on so many other parts of society!*

This Corporate attitude is part of the problem, and Corporations will need to be part of the solution.

In the specific case of the media and cultural industries, we see precarious work as problematic for another reason as well: *Since people are highly self-motivated to do this work, many have been found to willingly work for free and/ or in dangerous conditions just to get started.*

But just because people are desperate enough to do it, does not mean it's something should be accepted or left to become some kind of norm. For one, the *long-term ramifications for individuals and the cultural community are largely negative. Secondly, the public service aspect of media and cultural work make it even more important that we find ways to stop the normalization of part-time, unpaid, and underpaid work.*

Let me try to define the problem:

Often, media and cultural work can be seen as rewarding or glamorous, and as a result, it can be particularly vulnerable to abuses and worker exploitation.

For example, if a worker won't do a job in unacceptable conditions, someone else surely will. This is what's happening in the case of unpaid internships where we've seen significant increase in what is, in the end, "forced free labour". Fortunately, because of recent great work to bring attention to this exploitation, and the outrage that followed, some improvements are being made to bring in much needed change.

We continue to see this as a hopeful sign that positive change is possible but we still have a long way to go.

There are also the many versions of "forced freelancing": People forced to be self-employed, work piecemeal, from home, and other versions of sporadic employment with little or no access to the benefits and protection other workers have; and that we all deserve: *No paid sick days; no health and safety protection, no maximum hours of work or penalties when these are exceeded.*

Needless to say, in addition to the clearly *devastating impacts on people's lives*, this also has major effects on *the quality of output, on creativity, and on the long-term prospects of workers in general, and of the cultural industries that bring millions of dollars into the economy.*

A quick word on NEWS:

In the News business, an increase in precarious work means less independent reporting, fewer unique investigations – *because these are time-consuming and costly to do* – as well as a *weakening of the profession and craft as talented young workers leave for better paying or more stable jobs in other sectors.*

CMG's research shows 16 thousand media jobs cut between 2008-2015, and those are just the number of cuts that were reported in the media.

THE GIG ECONOMY AND... WORKER CLASSIFICATION

Let's take another example: The TV Production business. We all know an increasingly popular genre that employs several thousand workers in Ontario alone, is "Factual or Reality TV":

Workers are hired per-project, and even if the various projects are financed by the same source -repeatedly, each project can be considered to be an independent employer, employing not "workers" but self-employed professionals who have few of the protections other Ontario workers enjoy.

The industry is considered the Wild West, because there are *no rules*. CMG did two surveys of workers in this industry (2013, 2014), and generally found health and safety violations common: *shooting out of helicopters and vehicles with no seat belts, shooting from cranes with no harnesses, from boats with no life jackets!*

Workers tell us the more dangerous shows are the most popular, and if they refused or complained they would be replaced, and virtually blacklisted, so no one does.

Other common complaints were 60-plus-hour work weeks, no overtime pay, forced to do several jobs even if hired for one, being on call 24/7, with very little in writing and no redress for problems.

And even for experienced professionals, the work is extremely precarious, with few of the workers we surveyed employed a full 12 months of the previous year, but rather with regular forced periods of unemployment, and often not eligible for EI.

(By the way you can find a lot of information on this and other issues affecting media workers on our website at www.cmg.ca)

So what can we do about this?

There are many solutions that would help improve some of these issues:

1. Better enforcement and/or an appeals process: Currently there is no way workers with pay issues or other disputes can seek redress, so they are often out time and money when promised pay or other benefits are not delivered.
2. Guaranteed minimum standards: workers in cultural industries should have the same basic pay and health and safety standards as all workers, including hours of work, maximum hours of work, access to sick leave, maternity leave and other benefits.
3. Health and safety protection, and a means of enforcing standards without forcing individuals to formally complain or be public. When safety is an issue, an independent agency should be tasked with enforcement.
4. Close loopholes that exempt any workers from basic protections
5. Sectoral bargaining with multiple employers, so that basic issues affecting workers could be negotiated in a way the employers would see as fair, and workable for the industry.
6. Regulatory change-tax breaks/incentives for the industry tied to compliance with worker health/safety regulations.

It's urgent that we work on these and other solutions in order to ensure a thriving Canadian cultural and media industry.

Surely we can find ways to ensure Technological change and Globalization do not continue to tear away at

THE GIG ECONOMY AND... WORKER CLASSIFICATION

fundamental gains Canadian workers have fought for such as limits to working hours, fair pay, and safe and healthy working conditions.

We simply cannot accept that what we will now have is a never-ending downward spiral to compete with third-world wages and working conditions.

What we can do is work to find solutions, and force governments to step up and work with this generation of educated, politically astute young people to ensure the tools to a sustainable future are also available for them.

Not sure if this is any consolation, but we are not the only ones struggling with these issues. The good news here is that we find similar problems are being addressed in novel ways in Europe for example, including:

- In Germany where there are targeted social insurance programs for artists and writers
- And in France, where workers have been fighting for employment benefits for intermittent entertainment workers.
- And of course, at conference like these! A generation of talented, frustrated Canadians are grateful to you for your interest and your work on this.

THE GIG ECONOMY AND... WORKER CLASSIFICATION

STEVEN TUFTS

ASSOCIATE PROFESSOR, YORK UNIVERSITY

[@wsteventufts](#)



Steven Tufts is an Associate Professor in the Department of Geography at York University (Toronto, Canada). His research interests are related to the geographies of work, workers, and organized labour. Current projects involve labour union renewal in Canada, immigrant workers and labour market integration, labour market adjustment in the hospitality sector, the impact of climate change on hospitality work, and the intersection between labour and growing populism (with Mark Thomas). He has recently published in *Antipode*, *Labor Studies Journal*, *Alternate Routes*, and *The Economic and Labour Relations Review*. He is a supporter of the FairBnB Coalition.

THE GIG ECONOMY AND... WORKER CLASSIFICATION

In mid-July, the interim report on Ontario's *Changing Workplaces Review* was released. The 300+ page report said very little specifically about the 'Gig Economy' with the exception of a few sparse mentions on the role technology plays in changing employment relations.¹ On one hand, not specifically addressing the 'Gig Economy' may seem to be a substantial oversight. Focusing only on the role of new platforms such as Uber and AirBnB, however, fetishizes technological change and separates these developments from the broader changes that have been developing in the labour market since the 1970s. Kim Moody, has recently offered that these platforms are really just advanced ways for workers to 'moonlight' in an age with depressed wage growth and the majority of new employment in low wage, precarious jobs.²

The focus of the *Review* is on how to extend workplace protection to workers using platforms such as Uber, TaskRabbit and AirBnb to supplement their incomes.³ Indeed, much of the report focusses the challenges of misclassification.⁴ Here the options presented to deal with 'gig economy' work are to either: maintain the status quo and exclude many of these workers as independent contractors; recognize these workers as 'dependent contractors'⁵ (e.g. Uber drivers) and extend employment standards to them; or develop new regulations and standards that are specific to dependent contractors with exemptions for some sectors and workers.

Here, I believe the narrow framing of the options misses some important points. First, regulation of 'dependent contractors' in the 'gig economy' will be subject to exemptions for specific sectors and workers just as other sectors managed to exempt from the Employment Standards Act in the past. Exemptions in the present ESA have been documented excluding disproportionate numbers of women, young people, and racialized workers in sectors such as agriculture and hospitality.⁶ Second, there is an 'enforcement gap' that persists even when innovative and appropriate standards are established and applied to broad sectors.⁷ If employers in small workplaces can't be held accountable to the ESA, then how can the state ever enforce standards in a 'hyper-fissured' gig economy with private platforms organizing thousands of contractors. Further there are also legal challenges to classifications. The courts are inefficient in finding timely resolutions through litigation over classification and enforcement.⁸ But third and perhaps most important, the emergence of new platforms continue to erode traditional employment relationships and threaten unionized jobs in existing sectors. Workers earning substandard income in precarious employment are trapped in a vicious circle where they are forced to moonlight using Uber or rent out their homes to make ends meet. Yet, the economic activities they are engaging further undermine unionized jobs and employment in sectors such as taxi and accommodation services.

The 'gig economy' has enabled the most significant contradictions of neoliberal capitalism to surface. It is a mistake to think that the search greater labour market flexibility and lower wages is the end goal of neoliberalism. As an ideological project, neoliberalism is about ending the traditional employment relationship and creating a world of independent contractual relations where employee-employer social obligations are erased. There are too many goods and services that require the traditional employment relationship to organize production ranging from manufacturing to the operation of a large hotel that limit this neoliberal fantasy. Nevertheless, the pressure to displace the traditional employment relationship is persistent.

Given the limits of regulation and enforcement and the need for traditional employment in many sectors, any reform must also include the prohibition of certain platformed activities. The cases of Uber and AirBnB are examples where outright restrictions need to be seriously considered. While the social costs of Uber have been discussed at length, I'll focus on the rise of AirBnB in Toronto.⁹

THE GIG ECONOMY AND... WORKER CLASSIFICATION

The rapid expansion of the AirBnB platform in Toronto is astounding. There are currently over 10,000 listings for Toronto on the AirBnB platform as the number of listings doubled in 2016 from 2015. AirBnB's recruitment and marketing image as an opportunity for individual 'hosts' to share their rooms or their homes to earn money for vacations and holidays is challenged by statistics. First, a majority of rentals and revenues are 'entire homes' not extra room rentals or shared accommodations. Second, over 50% of revenues from AirBnB are generated by 'multi-unit hosts'. These are professional operations holding multiple units (sometimes in the same condo facility) using the platform to enter the short-term rental accommodation sector.¹⁰ They further sub-contract out cleaning services, in some cases using platforms such as TaskRabbit.

The impact on the hotel sector in Toronto is significant. There have been relatively few new net rooms added to Toronto's hotel room supply over the last 15 years. Development has largely been restricted to smaller co-developments which include hotels and condos. At the same time, AirBnB has grown from almost nothing in 2010 to over 10000 listings in the GTA and it is estimated by HLT Advisory that short term rentals have captured 5% of the market share in Toronto and Vancouver. From July to December in 2015, approximately 2,300 of these listings were active (available each night) with 1300 being 'booked' (occupied) in Toronto (57% vacancy rate).¹¹ To put this in perspective, it's the equivalent of the Eaton Chelsea being rented to almost full capacity every night – a hotel that itself is seeking to convert to condominiums removing significant hotel room supply from the market.

The impact is the restructuring of accommodation away from stays in hotels to private home displacing unionized hotel jobs. It also threatens the capacity of the sector to upgrade hotel room supply necessary for the city to attract large conventions.

Other impacts have also been reported in the media. Disruption of neighbourhoods by 'party AirBnBs' such as Bleeker Street in cabbage town where multiple unit hosts are operating are a concern.¹²

The shift of entire units from long term to short rentals also has implications for Toronto's affordable housing stock as supply is reduced. At the same time, these expanding short-term rental units are not paying commercial property taxes which are double that of residential property taxes, reducing city revenues that are need to pay for public housing.

AirBnB, currently valued between \$25 Billion and \$30 Billion, continues to grow in major urban areas and aggressively pursues litigation and municipalities seeking to restrict its operations.¹³ Nevertheless, there are organizations such as FairBnB.ca which are building coalitions to fight AirBnB's unregulated expansion in Canada's largest urban markets. There are a number of regulatory models ranging from licensing to platform accountability being proposed. However, the absolute prohibition of 'gig economy' short term rentals, needs to be on the agenda. Dealing with misclassification is an important part of regulating the future 'gig economy' work, but restriction of certain activities emerging from platforms such as Uber and AirBnB need to be on the table and perhaps the starting point of any regulatory framework.

¹ Mitchell, CM and Murray, JC 2016 Changing Workplaces Review – Special Advisors' Interim Report. Prepared for the Ontario Ministry of Labour to support the Changing Workplaces Review. The review does briefly mention the gig economy on page 146.

² Brooks, C. 2016 Interview with Kim Moody: Busting the Myths of a Workerless Future. *Labour Notes*, July 26
<http://labornotes.org/2016/07/interview-busting-myths-workerless-future>

³ Mitchell and Murray 2016 *Changing Workplaces Review* "The growth of "the sharing economy" continues to challenge business, to lawmakers and to regulators" page 19

THE GIG ECONOMY AND... WORKER CLASSIFICATION

⁴ Mitchell and Murray 2016 *Changing Workplaces Review* acknowledges that for labour advocates “Their concern about misclassification was not limited to one business or sector, but was expressed as likely more prevalent in certain segments of the economy including: the “gig” or “sharing” economy, cleaning, trucking, food delivery and information technology – to name but a few” page 146.

⁵ “Dependent Contractor” is the ‘common law compromise between standard employment relationship and independent contractor. See also White. G 2015 When will labour laws catch up with the gig economy? *The Atlantic*

<http://www.theatlantic.com/business/archive/2015/12/new-laws-for-the-gig-economy/419745/>. Doorey, David 2016 *The Law of Work: Common Law and the Regulation of Work*. Emond Publishing: Toronto.

⁶ Leah Vosko, Andrea M. Noack, and Mark P. Thomas. 2015. How Far Does the Employment Standards Act, 2000 Extend and What Are the Gaps in Coverage (Toronto: Ontario Ministry of Labour). Prepared for the Ontario Ministry of Labour to support the Changing Workplaces Review.

⁷ Vosko, L and M Thomas 2014 Confronting the employment standards enforcement gap: Exploring the potential for union engagement with employment law in Ontario, Canada 56 (5). 631-652

⁸ Cherry, Miriam A., Beyond Misclassification: The Digital Transformation of Work (February 18, 2016). *Comparative Labor Law & Policy Journal*, Saint Louis U. Legal Studies Research Paper No. 2016-2. Available at SSRN: <http://ssrn.com/abstract=2734288>

⁹ See Rogers, Brishen, The Social Costs of Uber (January 31, 2015). *University of Chicago Law Review Dialogue*, Forthcoming; Temple University Legal Studies Research Paper No. 2015-28. Available at SSRN: <http://ssrn.com/abstract=2608017> or <http://dx.doi.org/10.2139/ssrn.2608017>

¹⁰ Recent data has found that 84% of AirBnB revenues in the GTA come from entire home rentals and 57% of revenues from multi-unit hosts. HLT Advisory, 2016 AirBnB...& the Impact on the Canadian Hotel Industry, Ted Rogers School of Management. June

¹¹ HLT Advisory, 2016 AirBnB...& the Impact on the Canadian Hotel Industry, Ted Rogers School of Management. June

¹² Kalinkowski, Tess 2016 Bleeker St. residents say ‘ghost hotels’ ruining neighbourhood *Toronto Star*, August 5

<https://www.thestar.com/business/2016/08/04/a-neighbourhood-pushes-back-against-short-term-rentals.html>

¹³ Rolfe Winkler, Douglas MacMillan, Maureen Farrell 2016 Airbnb Plans Dual Stock Sales to Push Off IPO *Wall Street Journal*, June 29 <http://www.wsj.com/articles/airbnb-plans-dual-stock-sales-to-push-off-ipo-1467226873>

EMPLOYMENT STANDARDS ACT

JOSH MANDRYK

ASSOCIATE, GOLDBLATT PARTNERS LLP

@JMandryk



Josh Mandryk is a labour lawyer at Goldblatt Partners LLP. His practice focuses on all types of proceedings before the Ontario Labour Relations Board, including certification, unfair labour practice complaints, related employer applications, and construction industry grievances.

Josh graduated from the University of Toronto Faculty of Law in 2014 and was called to the Bar in 2015. He has been actively involved in the fight for interns' rights and, in his roles with Students Against Unpaid Internship Scams and the Canadian Intern Association, Josh drafted law reform proposals, worked closely with provincial and federal politicians on Private Members' Bills, delivered guest lectures and 'know your rights' workshops, and presented before the Standing Committee on Social Policy and the Toronto consultation for the Changing Workplaces Review. Josh has also authored papers and commentary on labour law and policy published by CCPA Ontario, the Canadian Labour and Employment Law Journal, the inaugural Yearbook of Comparative Labour Law Scholarship, and the Toronto Star.

Josh is on the Advisory Board of the Urban Worker Project and the Executive Board of the Canadian Intern Association.



What Does the *Employment Standards Act, 2000* Mean for Workers in the Gig Economy?

Josh Mandryk
Goldblatt Partners LLP

© GOLDBLATT PARTNERS August 08, 2016

WHAT IS THE *EMPLOYMENT STANDARDS ACT, 2000* (THE “*ESA*”)?

- A floor of workplace protections that apply to most employers and employees in Ontario regarding, *inter alia*, the following:
 - Hours of work and overtime pay;
 - Minimum wage;
 - Vacation and public holidays;
 - Severance and termination; and
 - Temporary help agencies.
- Employers and employees cannot agree to contract out of the *ESA*



© GOLDBLATT PARTNERS August 08, 2016

EMPLOYMENT STANDARDS ACT

WHY DO WE HAVE AN EMPLOYMENT STANDARDS ACT?

- “The harm which the Act seeks to remedy is that individual employees, and in particular non-unionized employees, are often in an unequal bargaining position in relation to their employers.”



Machtiger v. HOJ Industries Ltd. 1992 CanLII 102 (SCC), [1992] 1 S.C.R. 986

TO WHOM DOES THE *ESA* APPLY?

The *ESA* applies to “employees” and “employers”



The *ESA* does NOT apply to independent contractors

EMPLOYMENT STANDARDS ACT

KEY QUESTION: ARE YOU AN EMPLOYEE OR AN INDEPENDENT CONTRACTOR?



EMPLOYEE VS. INDEPENDENT CONTRACTOR?

- Definition of “employee” in the ESA non-exhaustive
- Various common law tests have been developed over the years to determine employee status, including:
 - the control test;
 - the four-fold test;
 - the organizational test; and
 - the enterprise test

EMPLOYEE VS. INDEPENDENT CONTRACTOR?

From the Supreme Court of Canada in *Sagaz Industries Canada Inc.*, [2001] 2 SCR 983, 2001 SCC 59 (CanLII):

- “There is no conclusive test which can be universally applied to determine whether a person is an employee or an independent contractor” (para 46)
- “The central question is whether the person who has been engaged to perform the services is performing them as a person in business on his own account.” (para 47)

EMPLOYEE VS. INDEPENDENT CONTRACTOR?

- Non-exhaustive list of factors to consider:
 - Level of control the employer has over the worker’s activities;
 - Whether the worker provides their own equipment;
 - Whether the worker hires helpers;
 - The degree of financial risk taken by the worker;
 - The degree of responsibility for investment and management held by the worker; and
 - The worker’s opportunity for profit
- Sagaz Industries Canada Inc.*, [2001] 2 SCR 983, 2001 SCC 59 (CanLII) at para 48

EMPLOYEE VS. INDEPENDENT CONTRACTOR?

- “it is important to note that whether or not an individual is an employee or an independent contractor is a question of law to be determined after consideration of all of the relevant factors”

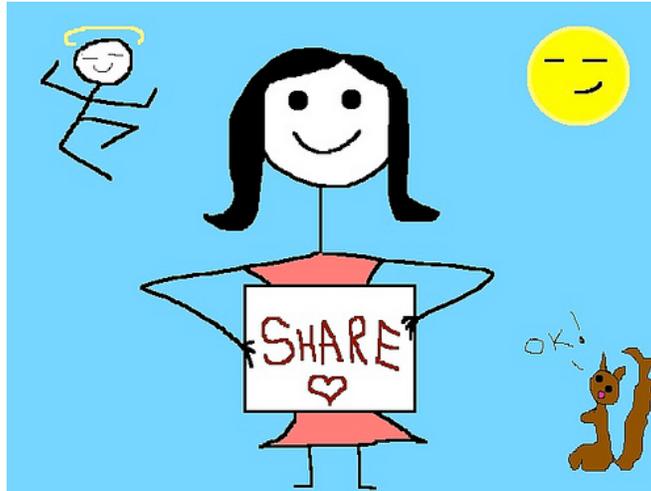
2006515 Ontario Inc. c.o.b. as The Greco Health Shack, 2005 CanLII 1757 (ON LRB) at para 39 [emphasis added]

WHAT ABOUT “DEPENDENT CONTRACTORS”?

- Intermediate category
- Recognized and included in the definition of employee in the *LRA*
- Recognized category at common law, entitled to common law reasonable notice
- Not recognized or defined in the *ESA*

EMPLOYMENT STANDARDS ACT

EMPLOYMENT? BUT ISN'T IT JUST "SHARING"?

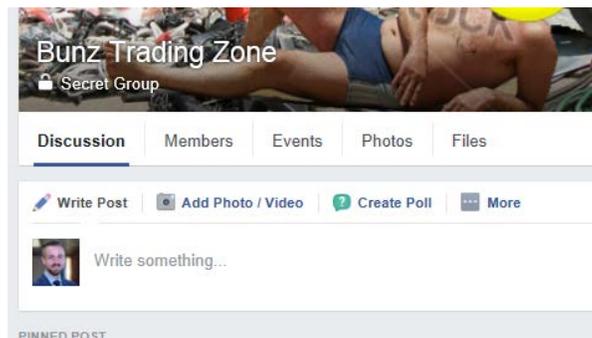
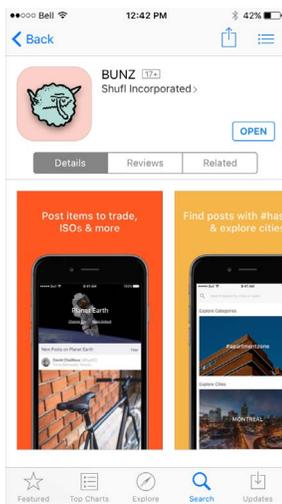


GP GOLDBLATT PARTNERS

© GOLDBLATT PARTNERS

August 08, 2016

APPS AS TRUE "MARKETPLACES"? BUNZ TRADING ZONE



GP GOLDBLATT PARTNERS

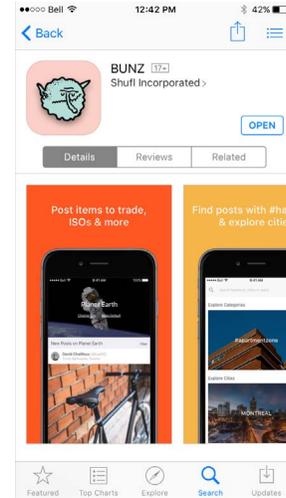
© GOLDBLATT PARTNERS

August 08, 2016

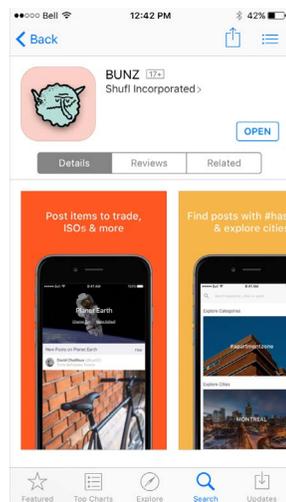
EMPLOYMENT STANDARDS ACT

APPS AS TRUE “MARKETPLACES”? BUNZ TRADING ZONE

- Trading App
- Started (and continues) as a popular Facebook group
- Members are “Bunz”
- “Bunz” post items to trade and their “ISO” (what they’re in search of)
- Trading for money is banned
- Common ISOs: TTC tokens, tall cans of beer, cheap wine



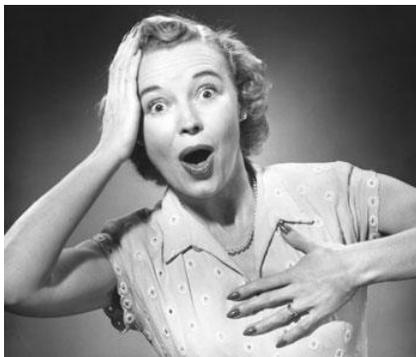
BUNZ TRADING ZONE IS NOT AN EMPLOYER



- The App doesn't assign work;
- The App doesn't decide your ISO;
- The App doesn't make you give the App one tall can if you're ISO five tall cans;
- The App doesn't decide who you trade with; and
- Bunz aren't disciplined for declining trades

GIG ECONOMY APPS AS EMPLOYERS?

Get past the novelty of modern technology, and the traditional indicia of employment appear...



GIG ECONOMY APPS AS EMPLOYERS?

Just because you can't see the employer, doesn't mean there is no employer...



GIG ECONOMY APPS AS EMPLOYERS?

- Some key considerations:
 - Does the app set the rate of pay for its workers?
 - Does the app assign work assignments to its workers?
 - Does the app review and monitor performance of its workers?
 - Can the app “fire” its workers?
 - Does the app set rules around when and how the work is performed?

GIG ECONOMY APPS AS EMPLOYERS?

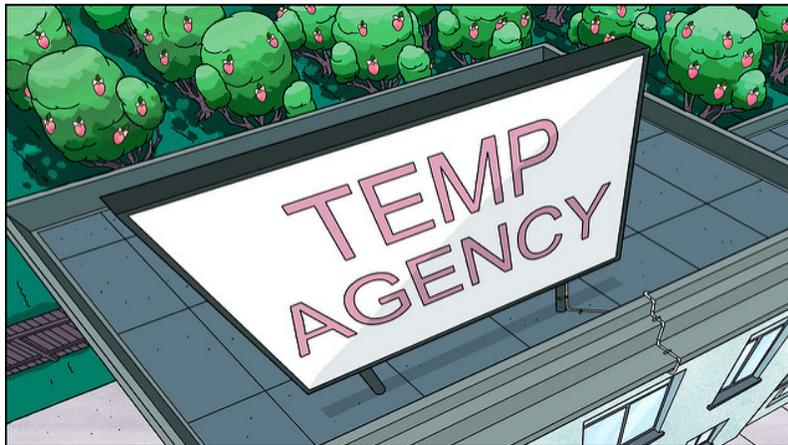
- Key considerations continued...
 - What discretion do workers have to decline to accept assignments?
 - Are there consequences for not accepting assignments?
 - Is the work performed by the workers integral to the App’s business?
 - Cutting through the entrepreneurial rhetoric, can the workers *really* be said to be in business of their own?

GIG ECONOMY APPS AS EMPLOYERS?

- Implications of employment status for gig economy workers:
 - Entitlement to minimum wage for all hours worked;
 - Entitlement to vacation pay;
 - Entitlement to overtime pay; and
 - Entitlement to severance and termination pay.
 - ... Subject to special exemptions (i.e. taxi drivers are not entitled to overtime pay)



GIG ECONOMY APPS AS TEMPORARY HELP AGENCIES?



EMPLOYMENT STANDARDS ACT

GIG ECONOMY APPS AS TEMPORARY HELP AGENCIES?

- Definitions from the ESA:
 - “assignment employee” means an employee employed by a temporary help agency for the purpose of being assigned to perform work on a temporary basis for clients of the agency; (“employé ponctuel”)
 - “client”, in relation to a temporary help agency, means a person or entity that enters into an arrangement with the agency under which the agency agrees to assign or attempt to assign one or more of its assignment employees to perform work for the person or entity on a temporary basis; (“client”)
 - “temporary help agency” means an employer that employs persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer. (“agence de placement temporaire”) 2009, c. 9, s. 3.

GIG ECONOMY APPS AS TEMPORARY HELP AGENCIES? WHY DOES IT MATTER?



EMPLOYMENT STANDARDS ACT

ARE GIG ECONOMY APPS CHARGING ILLEGAL FEES?

Prohibitions

74.8 (1) A temporary help agency is prohibited from doing any of the following:

...

2. Charging a fee to an assignment employee in connection with the agency assigning or attempting to assign him or her to perform work on a temporary basis for clients or potential clients of the agency.

...

GIG ECONOMY APPS AS TEMPORARY HELP AGENCIES?

- Implications for gig economy workers:
 - Temporary help agencies are employers under the *ESA*; and
 - Temporary help agencies are prohibited from charging fees for assigning employees to their clients. Gig economy workers may be entitled to reimbursement for these fees



EMPLOYMENT STANDARDS ACT

HOW CAN GIG ECONOMY WORKERS ENFORCE THEIR RIGHTS UNDER THE ESA?

- Employment standards complaints
- Small claims court actions
- Class actions



BARRIERS TO ENFORCING *ESA* RIGHTS



Many challenges, including:

- The Employer's discretion to classify workers as it chooses until someone complains and its policy is overturned;
- Legal and regulatory barriers;
- Fear of reprisal; and
- Difficulty standing up to sophisticated, well-resourced parties

EMPLOYMENT STANDARDS ACT

OPTIONS FOR REFORM FROM THE INTERIM REPORT OF THE CHANGING WORKPLACES REVIEW

July 2016

Changing Workplaces Review
**SPECIAL ADVISORS'
INTERIM REPORT**

Ministry of Labour



© GOLDBLATT PARTNERS

Options for Reform that would help gig economy workers include:

- Placing the onus in disputes regarding employment status on the employer;
- The introduction of a dependent contractor provision in the ESA; and
- Strengthened enforcement and compliance mechanisms

August 08, 2016

THANK YOU!

Questions? Comments? Want to talk more about workers' rights in the gig economy?

Email me at:

jmandryk@goldblattpartners.com



© GOLDBLATT PARTNERS

August 08, 2016

LABOUR RELATIONS ACT

LEWIS GOTTHEIL TRADE UNION LAWYER



Mr. Gottheil graduated from McGill University, B.A. (Great Distinction 1977) and Osgoode Hall Law School (LLB 1980). He was called to the Bar in 1982.

Mr. Gottheil was an associate and then partner in a boutique labour law firm from April, 1982 until December, 1989. He acted on behalf of several private and public sector trade unions, including what was then the Canadian Region of the UAW, with respect to a diverse range of matters.

In January, 1990 he became the founding member and Director of the CAW-Canada Legal Department, as well as Counsel to the Union. In 2012 – 2013 Mr. Gottheil was a member of the CAW CEP Proposal Committee which laid the ground work for the creation of a new Canadian Union, Unifor. In 2013, Mr Gottheil co-chaired the Committee which drafted the constitution of Unifor.

Until his retirement on February 1, 2015 Mr. Gottheil lead the CAW/Unifor Legal Department team of seven lawyers and two students located in Toronto and Montreal. Mr. Gottheil advised the leadership and staff of the Union, in both official languages, with respect to the broad range of legal issues that impact the Union and its membership, at the bargaining table, in the workplace, and in the community at large.

He appeared as litigation counsel to defend and advance the legal interests of the Union before all employment related Tribunals and all levels of provincial and federal Superior and Appellate Courts. Upon retirement, Mr. Gottheil has continued his work as a sole practitioner, acting as counsel on behalf of two major Unifor local unions in the federal sector. He has branched out into the field of union and worker education, as an instructor in the Unifor/McMaster University Worker Education program.

He is a member of the Labour Relations and Organizing Committee of the OFL, and the Legal Advisory Committee of the Financial Services Commission of Ontario. He also sits on the Board of Directors of the Institute for Work and Health. Recently, Mr. Gottheil was appointed to the Legal Advisory Committee of the Financial Services Tribunal.

Workers in the Gig Economy: Their Access to Rights Under the OLRA

Lewis Gottheil, August 8, 2016, Ryerson University

What is the “Gig Economy”?

- A collection of markets that match providers (i.e.. workers) to consumers on a “Gig” or “job” basis in support of on demand commerce”.
- “Gig” workers enter into formal agreements with on demand companies to provide services to the company’s clients. Prospective clients request services through an Internet based technological platform or smart phone application that allows them to search for providers (workers) for specific gigs or jobs. The providers are compensated for their work.

Common Characteristics of on demand or digital matching firms

- They use information technology typically available via web based platforms such as mobile “apps” on Internet enabled devices to facilitate “peer to peer” or consumer to worker transactions.
- They rely on user based rating systems for quality control, ensuring a level of trust between consumers and service providers who have not previously met.
- They offer workers who provide services via digital matching platforms flexibility in deciding their typical working hours.
- To the extent that tools and assets are necessary to provide a service, digital matching firms rely on the workers using their own.

Some common characteristics (continued)

- On demand or digital matching firms collect a portion of job earnings, i.e.. commissions solicited through the company platform; calculated by a flat percentage, or other defined formulas.
- Digital matching firms seek to control their brand; therefore most are selective about who operates under their brand. They may require a background check, credentials, experience etc., and would reserve the right to terminate their “relationship” with the provider.
- On demand companies control the provider- client relationship. Some firms discourage or bar providers from accepting work outside the platform from clients who use the firm’s platform.

Business models do vary: and this matters

- Some on demand companies allow providers to set their prices and the jobs they will perform, while other firms control price setting and assignment decisions.
- Most give providers some or full discretion to select or refuse jobs, set their working hours and level of participation.
- These factors impact our discussion.

Access to the right to organize and bargain collectively: GIG workers

- Some key definitions: (OLRA, 1995); Section 1(1)
- “ a trade union”: means an organization of **employees** formed for purposes that include the regulation of relations between **employees** and employers.....”;
- “**employee**” includes a **dependent contractor**;
- “**dependent contractor**”: means a person, whether or not employed under a contract of employment, and whether or not furnishing tools, vehicles , equipment, machinery, material, or any other thing owned by the dependent contractor, **who performs work or services for another person for compensation or reward on such terms and conditions that the dependent contractor is in a position of economic**

Access to the right to organize.....Gig Workers

dependence upon, and under an obligation to perform duties for, that person more closely resembling the relationship of an employee than that of an independent contractor.

- Section 9(5): “A bargaining unit consisting of solely dependent contractors shall be deemed by the Board to be a unit of employees appropriate for collective bargaining, but the Board may include dependent contractors in a bargaining unit with other employees if the Board is satisfied that a majority of the dependent contractors wish to be included in the bargaining unit.”

1992, Taxis -----OLRB-----2016, Uber?

- In 1992 RWDSU launched a major organizing campaign with respect to taxi drivers in the City of Toronto.
- 9 applications for certification were filed; the issue before the OLRB : are taxi drivers employees, (i.e.. dependent contractors) who may organize in a union?
- The jurisprudence is consolidated in a significant decision, Diamond Taxi Cab Association [1992] OLRB Rep November 1143.
- The answer: yes , taxi drivers (including so called owner operators) are employees of the broker that dispatches them and exercises a meaningful degree of control over their work.....

OLRB ruling: Diamond Taxi Cab Association

- Paragraph 56: *“What is significant is that they regularly and consistently derive a substantial portion of their income from a single entity (i.e.. the broker) which exercises detailed control over the performance of their work by means of an elaborate system of written or unwritten rules and disciplinary responses which effectively penalize anyone failing to meet its standards (which must be maintained if the broker is to preserve its goodwill by ensuring that those who call it for transportation are properly served.)*
- Paragraph 57 : *“If one asks the question: Whose business is it? The answer is clear. The drivers are not carrying on an independent business on their own behalf; they are an integral part of the broker’s operating organization, subject to substantial discipline not only for improper conduct in respect of dispatched trips but also in respect of flags (non dispatched fares).”*

Uber drivers: are they dependent contractors?

- The answer to this question may turn on the same considerations/factors reviewed in the Diamond Taxi Cab Association case:
- The terms of the municipal license, if any, governing a Uber car, or network;
- The terms of compensation as between Uber and the driver; since drivers do indeed perform services for compensation from Uber;
- The right of Uber to control the conduct of the driver and quality of service; Code of conduct rules, and the manner in which Uber monitors the performance of drivers and the consequences following misconduct;
- The right of Uber to terminate it’s relationship with the driver;
- Whether Uber provides insurance and any other assistance to the driver;

Uber drivers: are they dependent contractors?

The nature of Uber's application process for permission to enter the platform, (background checks, interviews, knowledge verification etc.);

Whether, by the terms of the contract between Uber and the driver, a driver's right to solicit future business from a client is or may be barred;

Uber's right to direct the manner and means by which a driver provides the service.

The judicial / regulatory response in the U.S.

- NLRA, the American federal equivalent to our OLRA recognizes the right of employees in the private sector to engage in collective bargaining.
- The Fair Labour Standards Act (FLSA) requires the payment of a minimum wage, and overtime compensation for all employees;
- As early 2016, no reported federal court cases;
- However, in a closely watched file, *Berwick v. Uber Technologies Inc.* (June 16 2015) California's labour commissioner found that Uber maintained a sufficient level of control over the work of drivers that it ought to be found to be an employer;

LABOUR RELATIONS ACT

- The commissioner stated: “*Defendants hold themselves out as nothing more than a neutral technological platform, designed to simply enable drivers and passengers to transact the business of transportation. The reality, however is that Defendants are involved in every aspect of the operation.*”
- In a class action law suit, *O’Connor v. Uber Technologies Inc.*, case no.C-13-3826, a California District Court judge found that Uber was presumptively, at law, under the California Labour Code, the employer of Uber drivers, and put the question of whether the drivers were an independent contractors (a question of mixed law and fact) to the jury. The jury trial was to start June 30, 2016. A settlement was made, calling for the payment of 100 million dollars. It has yet to be approved by the Court.

How can labour relations law keep up?

- Look to current models for some guidance

The federal *Status of the Artist Act* S.C. 1992, c.33 (a collective bargaining model)

The (repealed) *Industrial Standards Act*, and *An Act Respecting Collective Agreement Decrees* S.Q. Chapitre D-2 (models for establishing minimum standards in a particular sector or with respect to a particular activity.)

Status of the Artist Act:

- Applies to independent contractors who are “professional” cultural workers and the organizations that contract with them.
- Is essentially labour legislation , modelled on Part One of the Canada Labour Code, and thus borrows **some** of the attributes of the “Wagner Act” framework underlying North American labour relations law.
- Is administered by the Canada Industrial Relations Board; (CIRB)
- Stipulates some significantly different rules pertaining to the granting of bargaining rights to bargaining agents.

Status of the Artist Act:

- Bargaining rights are conferred by sector;
- A sector is determined by (a) the common interests of the artists in question; (b) the history of professional relations among those artists, their associations, and producers.....(c) any geographic and linguistic criteria that the Tribunal considers relevant;
- An applicant must demonstrate that it is the “most representative” of artists in that sector; no requirement to show majority support, a clear divergence from the “Wagner Act “ model;
- Certifications are treated as fixed term, renewable licenses;
- The Tribunal must keep a register of all certificates issued and their term.

Status of the Artist Act:

- A certificate authorizes the successful applicant to bargain on behalf of all artists in the sector, with a view to making a “scale agreement” in writing between itself and a producer or producers’ association, which defines the minimum terms and conditions for the provision of the artists’ services and related matters.
- An individual artist is free to negotiate a personal services contract above the minimums established in the scale agreement.
- For a further discussion, please see “ *Collective Bargaining for Independent Contractors: Is the Status of the Artist Act a Model for other Industrial Sectors* 7 C.L.E.L.J 355 (MacPherson)

Conclusion and Discussion

- What other models exist, and are they applicable to the Gig workers?
- The Changing Workplaces Review and Provincial government initiatives; what is next?

- Lewis Gottheil
- Law office of Lewis Gottheil

OCCUPATIONAL HEALTH AND SAFETY ACT

MANDY WOJCIK

PARTNER, GOLDBLATT PARTNERS LLP

@GPLLP



Mandy Wojcik's practice encompasses labour law, occupational health and safety, human rights, disability law, professional regulation, and corporate governance.

Mandy represents unions in public and private sector workplaces in grievance arbitrations, collective bargaining, labour board matters and workplace human rights issues. She provides strategic advice and representation to unions on all occupational health and safety matters.

Mandy received her law degree from York University's Osgoode Hall Law School and holds a Bachelor of Arts degree from McGill University. She was called to the Ontario Bar in 2006. She is a member of the Canadian Association of Labour Lawyers, the Law Union of Ontario, and is an executive member of the Ontario Bar Association's Education Law section.

OCCUPATIONAL HEALTH AND SAFETY ACT



The *Occupational Health and Safety Act* & the Gig Economy

Mandy Wojcik
Goldblatt Partners LLP

© GOLDBLATT PARTNERS August 08, 2016

OHSА 101

- "...[T]he OHSА is a remedial welfare statute intended to guarantee a minimum level of protection for the health and safety of workers" (*Ontario (Ministry of Labour) v. United Independent Operators Ltd.*, 104 O.R. (3d) 1, 2011 ONCA 33 at para. 29)
- Provides administrative, procedural and substantive requirements for occupational health and safety in Ontario
- Imposes enforceable duties and responsibilities on all workplace parties (including employers, workers, supervisors, owners and others)
- Gives workers 3 important rights
- Makes clear that employers have the greatest responsibility for health and safety
- Provides for internal and external enforcement



© GOLDBLATT PARTNERS August 08, 2016

OCCUPATIONAL HEALTH AND SAFETY ACT

OHSA: Employer key duties and responsibilities

- Employers:
 - Duty to take every precaution reasonable in the circumstances for the protection of a worker
 - Establish a system to manage occupational health and safety
 - Appoint competent supervisors
 - Provide information, instruction and supervision

OHSA: Worker key duties and responsibilities

- Workers:
 - Reporting hazards in the workplace
 - Working safely and following safe practices
 - Using required personal protective equipment
 - Participating in health and safety programs established in the workplace

OCCUPATIONAL HEALTH AND SAFETY ACT

OHSA: Three important rights for workers

- (1) The right to know about hazards in their work and get information, supervision and instruction to protect their health and safety on the job.
- (2) The right to participate in identifying and solving workplace health and safety problems through a health and safety representative or worker member of the Joint Health and Safety Committee
- (3) The right to refuse unsafe work.

OHSA: Enforcement & the Internal Responsibility System

- IRS is not a term found in the *OHSA*
- Based on the concept that when all of the workplace parties are carrying out their duties and responsibilities, it creates internal checks and balances that promote a safe and healthy workplace.
- Example: A worker sees a hazard, immediately reports it, and the employer addresses the hazard by eliminating or reducing it in an appropriate and timely manner.
- Important role of the joint health and safety committee (required “at a workplace where 20 or more workers are regularly employed”)

OCCUPATIONAL HEALTH AND SAFETY ACT

OHSA: Ministry of Labour Enforcement

- Carried out by Ministry of Labour inspectors on a proactive and reactive basis
- Anyone can make a complaint or report by telephone to the MOL's call centre (1-877-202-0008)
- Inspectors have broad enforcement powers: orders to comply, stop work orders, ticketing certain offences, recommend prosecution for violations of the *OHSA*

OHSA & the Gig Economy: Key issues

- Who is an “employer”?
- Who is a “worker”?
- Section 3(1) Private Residences Exclusion

OCCUPATIONAL HEALTH AND SAFETY ACT

“Employers” under the *OHSA*

- *s.1(1) “employer” means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services [emphasis added]*
- This definition is much broader than the definition of “employer” found in common law and in most employment law statutes
- The Ontario Court of Appeal has consistently held that *OHSA* and its regulations apply to the employer of an independent contractor and to employees or workers of other employers



© GOLDBLATT PARTNERS August 08, 2016

“Employers” under *OHSA*

- The Ontario Court of Appeal cases:
 - *R v. Wyssen* (10 O.R. (3d) 193; [1992] O.J. No. 1917)
 - “Contract for services” vs. “contract of services”
 - *Grant Forest Products v. Ontario* (Ministry of Labour), [2004] O.J. No. 225
 - *R. v. Pioneer Construction Inc.*, [2006] O.J. No. 1874



© GOLDBLATT PARTNERS August 08, 2016

OCCUPATIONAL HEALTH AND SAFETY ACT

“Workers” under the *OHS*A

- S. 1(1) “worker” means any of the following, but does not include an inmate of a correctional institution or like institution or facility who participates inside the institution or facility in a work project or rehabilitation program:
 1. A person who performs work or supplies services for monetary compensation.
 2. A secondary school student who performs work or supplies services for no monetary compensation under a work experience program authorized by the school board that operates the school in which the student is enrolled.
 3. A person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution.
 4. A person who receives training from an employer, but who, under the Employment Standards Act, 2000, is not an employee for the purposes of that Act because the conditions set out in subsection 1 (2) of that Act have been met.
 5. Such other persons as may be prescribed who perform work or supply services to an employer for no monetary compensation;

Independent Contractors and the JHSC

- Independent contractors are “regularly employed” within the meaning of s.9(2)(a) of *OHS*A and are therefore included in the threshold count when determining whether a joint health and safety committee is required at a workplace. (*R. v. United Independent Operators Ltd.*, 2011 ONCA 33, additional reasons 2011 ONCA 135)
- The question becomes: Whether they are regularly employed at a workplace?

s. 3(1) Private Residences

- s. 3(1) This Act does not apply to work performed by the owner or occupant or a servant of the owner or occupant to, in or about a private residence or the lands and appurtenances used in connection therewith.
- This exclusion would appear to encompass many kinds of work and workers: cleaners, caregivers (e.g. personal support worker, 'nanny' or babysitter), tradespeople, landscapers, gardeners etc.

s. 3(1) Private Residences: History

"This exclusion from the OHSA was justified by the Honourable Robert Elgie, then Minister of Labour, during the debates leading to the passage of the OHSA, when he stated:

...in the case of domestics employed by the owner in a private residence, the employer is really asking no more than he or she asks him or herself in that residence. Thus, an exclusion is based on this practicality: the home is not considered a work place in the usual sense of the word, and indeed in my view it would be an invasion of privacy to allow checking or inspecting of homes.

However, the Minister of Labour was of the opinion that if a person was employed by a private agency and sent to a private residence to perform domestic duties, then the worker would likely be governed by the OHSA."

-From: Norman A. Keith, *Ontario Health and Safety Law*, 2:3300, Looseleaf, Thompson Reuters quoting *Hansard, Debates of the Legislature of Ontario* (December 14, 1978), p. 6114

OCCUPATIONAL HEALTH AND SAFETY ACT

s. 3(1) Private Residences

- Who is a “servant”? Inconsistent approaches
 - *Gervais v. Lee* (2001), 104 A.C.W.S. (3d) 689 (Ont. S.C.J.)
 - *R. v. Zahoruk* (unreported, January 20, 1987, Ont. Prov. Ct., Strachan J.P.)
- What is a “residence”? “Residence” vs. “construction project”
 - *McAlonen v. Vandel*, [1997] O.J. No. 1487 (QL) (Gen. Div.)
 - *R. v. Vandel*, (unreported, January 9, 1994, Ont. Ct. (Prov. Div.), Gemmell J.P.)
- Why might there be so few cases?
- Is the exclusion of all workers who work in or around private residences consistent with the purpose of *OHS*A?

Some final points...

- The good news for workers in the gig economy:
 - Broad definition of “employer”: includes employer of an independent contractor or the employee or worker of another employer
 - Broad definition of “worker”: includes employees, self-employed* individuals, partners, persons engaged in subtrades or the employee or worker of another employer
- The maybe not-so-good news for workers in the gig economy:
 - Limited opportunity for participation and/or limited power in the Internal Responsibility System
 - A potentially very broad exclusion for work performed in or around private residences
- The bad news for consumers/users who contract for services through online platforms: They may be assuming liability under the *OHS*A and are completely unaware of it.

Additional Resources

- Vosko, Leah F. and Tucker, Eric and Gellatly, Mary and Thomas, Mark P., New Approaches to Enforcement and Compliance with Labour Regulatory Standards: The Case of Ontario, Canada (November 2011). Osgoode CLPE Research Paper No. 31/2011. Available at SSRN: <http://ssrn.com/abstract=1975867> or <http://dx.doi.org/10.2139/ssrn.1975867>
- Huws, Ursula, Discussion Paper: A Review on the Future of Work: Online Labour Exchanges, or 'Crowdsourcing': Implications for Occupational Health and Safety (June 2015). European Agency for Safety and Health at Work. Available at: <http://osha.europa.eu>

ONTARIO HUMAN RIGHTS CODE

KATHERINE CHAU

ASSOCIATE, VAN KRALINGEN LAW

[@_katherinechau](#)



Katherine Chau is a Toronto lawyer practicing in the areas of employment law and commercial litigation at Van Kralingen Law. Prior to joining Van Kralingen Law, Katherine was an associate at an union side labour law firm representing construction trade unions and completed a public interest assignment with the United Nations Office on Drugs and Crime in Vientiane, Laos where she worked on a legal research project and became involved with many local human rights initiatives.

ONTARIO HUMAN RIGHTS CODE

The Ontario Human Rights Code offers broad protections from discrimination in five different areas: (1) Services, (2) Housing, (3) Contracts, (4) Employment, (5) Professional Associations.

For our purposes, the most relevant areas of protections for workers in the gig economy would be “contracts” and “employment”. These broad protections for both contracts and employment -- effectively ensures that there are full protections for workers in the Gig Economy from discrimination under the Ontario Human Rights Code.

Protection under Ontario Human Rights Code from discrimination based on 17 different personal attributes. These include:

- Race
- Ancestry
- Place of Origin
- Colour
- Ethnic Origin
- Citizenship
- Creed
- Sex
- Sexual Orientation
- Gender Identity
- Gender Expression
- Age
- Record of Offences
- Marital Status
- Family Status
- Disability

What all of these protected grounds have in common is that these attributes are so closely tied to one’s personhood and therefore, an integral part of a person’s identity, and sense of dignity and self-respect.

These protections under the Ontario Human Rights Code are significant, particularly given that those workers who are socially marginalized as a result of one or more of these characteristics are more likely to be engaged in precarious work and potentially affected by the gig economy.

Therefore, the protections under the Ontario Human Rights Code become even more important for workers in the gig economy and it becomes more important than ever for these workers to understand their rights under the Code.

It is important to emphasize that the code will only protect workers from differential treatment if it is connected to one or more of these 17 protected grounds.

For example, the Code will not apply if you feel you were treated differently in your job due to a personality conflict with your manager as this differential treatment is not related to a ground such as your age, sex or race.

ONTARIO HUMAN RIGHTS CODE

Whereas, the Code will apply if an employer asks that a temp agency only provide female receptionists. This would be discriminatory based on sex.

As indicated earlier, employment is one of the five areas that come within the Ontario Human Rights Code. Specifically, Section 5 of the Code states that: “every person has a right to equal treatment with respect to employment without discrimination...”

Interestingly, the term “employment” is not defined under the Code. This led to a lack of clarity as to what exactly was protected under the term “with respect to employment”. Given the rise of the gig economy and increase of non-traditional work arrangements, arguably, the definition of employment might become more relevant.

A very recent decision by the Tribunal – *Di Muccio v. Newmarket (Town)*, 2016 HRTO 406 – has offered more guidance as to what is captured by Section 5 of the Code. The Tribunal held that in determining whether a relationship comes under “with respect to employment” – the Tribunal will consider two factors: (1) Whether there is control by the employer over work conditions and remuneration, and (2) Whether there is a sense of dependency by the worker.

For many gig workers, it’ll be obvious that the gig comes under this definition of employment. For example: a Part Time coffee shop worker would undoubtedly constitute “employment” under Section 5 of the Code. However, there are some gray areas – for example, an uber driver – despite the fact that uber has classified drivers as independent contractors – I think there’s a strong argument that there is sufficient control and dependency between uber and their drivers to come within the employment definition.

In comparison, lets consider a host on Airbnb who rents out their apartment. Arguably, this might be a gig that does not necessarily have the indicia of control and dependency to come within Section 5 of the Code. However, even if the Airbnb host is not protected by Section 5 as “with respect to employment”, we have to remember, as I previously mentioned that Contracts is another one of the five areas that comes within the Ontario Human Rights Code.

Therefore, even if workers in the gig economy do not qualify for protection under the act “with respect to employment”, the protections under the Human Rights Code also apply to the right to contract on equal terms without discrimination because of any Code grounds.

In any event, regardless of whether someone is protected under “employment” or under “contract” – the courts have said that because of the importance of the protections under the Human Rights Code, it should be given broad and generous interpretation.

Therefore the Code has generally been interpreted to apply to a wide range of employment situations, which could apply to many workers in the gig economy including:

- During Pre Employment (i.e. job posting, interview, and offering of the position)
- During Post Employment (i.e. terminations)
- In Non Traditional work environments (i.e. volunteers, interns, gig economy)

ONTARIO HUMAN RIGHTS CODE

- Situations involving guests, clients and patrons in workplaces

To summarize: What does this all mean for workers in the gig economy?

Bottom Line: In Ontario, protection under the Human Rights Code is not contingent upon traditional employment status and therefore, the Code applies equally to all workers regardless of if they are:

- Independent contractors
- Part time
- Casual
- Temporary
- Freelancers
- Contractors
- Volunteers or
- Interns

Some final remarks – I think that the Human Rights Code is distinct from some of the other employment legislation that we have heard about today in that your work classification does not result in less rights or protections.

Therefore, employers should be mindful of their obligations to provide their workers with equal treatment without discrimination regardless of what their work classifications are. And workers themselves – should realize that they are entitled to the exact same protections in the human rights context regardless of their work arrangements.



Ontario Human Rights Code & the Gig Economy

Katherine Chau - kchau@vklaw.ca

Ontario
Human Rights
Code

- Services
- Housing
- Contracts
- Employment
- Professional Associations

ONTARIO HUMAN RIGHTS CODE

Freedom from
Discrimination
on the Basis of...

- Race
- Ancestry
- Place of origin
- Colour
- Ethnic origin
- Citizenship
- Creed
- Sex
- Sexual Orientation
- Gender Identity
- Gender Expression
- Age
- Record of Offences
- Marital Status
- Family Status
- Disability

Section 5(1): Every person has a right to equal treatment **with respect to employment** without discrimination

HRC applies to a wide range of employment situations:

- Pre-employment (i.e. prospective applicants)
- Post employment (i.e. terminations)
- Non-traditional work environments
- Guests, clients and patrons in workplaces

What does this mean for workers in the Gig Economy?



PAY EQUITY ACT

EMANUELA HEYNINCK

COMMISSIONER, ONTARIO PAY EQUITY COMMISSION

@OntPayEquity



Emanuela Heyninck is the head of Ontario's Pay Equity Commission, an independent agency of the Ministry of Labour. The Commission enforces the Ontario Pay Equity Act, aimed at redress systemic gender compensation issues. In addition to its enforcement and education mandate, the Commission has the authority to research and make recommendations to the Minister of Labour on issues related to pay equity, gender wage gaps and women and work.

In April of 2015, Ms. Heyninck was one of four individuals appointed by the government to the Gender Wage Gap Strategy Steering Committee. The Committee conducted research and held public consultations to seek solutions to close the gender wage gap in Ontario. The Committee's recommendations were submitted to the Minister of Labour in May of 2016.

Ms. Heyninck also serves as a part-time adjudicator for the Health Professions and Health Services Appeal and Review Boards and is the immediate Past President of the Society of Adjudicators and Regulators. She is a member of several Advisory Councils, including Conestoga College and the University of Western Ontario Student Law Clinic and is a mentor at Brescia College. She holds an Hon. B.A. in Italian and French from McMaster University and a Bachelor of Laws from the University of Windsor.

Before her appointment she practiced civil, family and administrative law in London, Ontario for 25 years. Her past community involvement has included several terms on the Executives of the London Chamber of Commerce, the London Business and Professional Women's Club, the Middlesex Family Lawyers Association, the Middlesex as well as the Ontario Collaborative Law Group, Hospice of London and Investing in Children.

Pay Equity Commission



The Gig Economy and Pay Equity

Emanuela Heyninck
Pay Equity Commissioner

The Gig Economy and Your Protections and
Rights, Ryerson University

August 2016

UNDERVALUING WOMEN'S WORK

- Gender stereotypes and social norms create circumstances that affect the way in which women's work is considered and valued.
- To specifically address the undervaluation of work historically performed by women, Ontario enacted the *Pay Equity Act* in 1987.
- The *Act* addresses systemic discrimination by valuing jobs within a workplace, not the individual.



PAY EQUITY ACT

PAY EQUITY AND EQUAL PAY FOR EQUAL WORK

Pay equity requires comparing jobs usually done by women to **different** jobs usually done by men and paying them at least the same where they are comparable in value based on defined criteria to determine value.

Proactive in Ontario – not reliant on a complaint.

Equal pay for equal work requires that men and women receive equal pay when they do the **same or substantially the same** job in the same establishment according to defined criteria to determine same/similar jobs.

Complaint based in Ontario (in the ESA).

PROACTIVE LEGISLATION

All public sector employers and all private sector employers with 10+ employees **MUST** ensure that their compensation practices provide for pay equity at inception and as a continuing process.

- ✓ Determine job classes, including the gender and job rate of job classes.
- ✓ Determine the value of job classes based on 4 factors: skill, effort, responsibility and working conditions.
- ✓ Conduct comparisons for all female job classes using job-to-job, proportional value or proxy method (proxy has very limited scope and application).
- ✓ Adjust the wages of underpaid female job classes so that they are paid at least as much as an equal or comparable male job class or classes.

THE ACT DOES NOT DEFINE “EMPLOYEE”

There are the two exclusions:

- A student employed for their vacation period
- Casual workers (under very limited circumstances)

There is room to interpret the term “employee” by:

- Examining the nature, structure and actual aspects of the employment relationship
- Examining whether or not the work is integral to the business



The Office encourages employers to interpret "employee" broadly for the purpose of pay equity in our Guide to the Act.

THE ACT DOES NOT DEFINE “EMPLOYER”

Determining the employer depends on the facts and circumstances of the business structure and/or employment relationships.

1. Who has overall financial responsibility?
2. Who has responsibility for compensation practices?
3. What is the nature of the business, service, or enterprise?
4. What is most consistent with achieving the purpose of the Pay Equity Act?

For pay equity purposes, the employer controls the work, financial issues, employment or labour relationships and the organization’s core activities.

THE WORKPLACE RELATIONSHIP

- The lack of definitions allows for the inclusion of different relationships on a case by case basis such as:
 - Temp agencies
 - Franchises
 - Dependent contactors
- However, in the gig economy relationships are often centred on an individual (true independent contractor) which is not covered by the Act.



CAN PAY EQUITY APPLY IN THE GIG ECONOMY?

How can the goal of the Act (addressing systemic workplace gender discrimination of “women’s” work) be achieved?

- Better understanding of the kind of work women perform in the gig economy: e.g. by obtaining real time data through employer reporting
- Ensure broadest interpretation of workplace relationships upon which to impose obligations – binary relationship/physical workplace may no longer be appropriate
- Apply sectoral pay equity standards or approaches based on emerging trends in the job market
- Recognize different types of bargaining structures for pay equity purposes

THE GENDER WAGE GAP STRATEGY

In Fall of 2014, the Minister of Labour's mandate letter from the Premier noted:

*"Women make up an integral part of our economy and society, but on average still do not earn as much as men. You will work with the Minister Responsible for Women's Issues and other ministers to **develop a wage gap strategy that will close the gap between men and women in the context of the 21st century economy.**"*

THE GENDER WAGE GAP STRATEGY

The Gender Wage Gap Strategy Steering Committee was formed in April 2015 and submitted recommendations following public consultations and research in May 2016.

Relevant documents, including Background Paper, Consultation Papers, Consultation Report and upcoming news releases can be accessed at:

<https://www.labour.gov.on.ca/english/about/gwg/index.php>

PAY EQUITY ACT

Contact:

Pay Equity Commission
180 Dundas Street West, Suite 300
Toronto Ontario M7A 2S6

Commissioner's Email:
Emanuela.Heyninck@ontario.ca

General Email:
pecinfo@ontario.ca

Website:
www.payequity.gov.on.ca

Telephone:

Commissioner: 416-314-1780
General: 416-314-1896
Toll-free: 1-800-387-8813

TTY Local: 416-212-3991
TTY Toll-free: 1-855-253-8333

Facsimile: 416-3148741

 @OntPayEquity @OntPayEquityFR

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT & FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

SIMONE OSTROWSKI

ASSOCIATE, KOLDORF STAM LLP

[@KoldorfStamLaw](#)



Simone Ostrowski is an associate with Koldorf Stam LLP. Simone's practice focuses on labour, employment, human rights and occupational health and safety law. She acts for both employers and employees with a particular focus on workplace litigation. In May 2016, Simone was a panelist at the Ontario Bar Association's 2016 Update on Human Rights, where she spoke about best practices on serving clients with mental disabilities.

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT & FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

There are two main pieces of privacy legislation that are relevant for my discussion – PIPEDA and FIPPA

The first piece of privacy legislation, PIPEDA, stands for the Personal Information Protection and Electronic Documents Act

These are two main purposes behind PIPEDA:

1. The first is “Protecting personal information that private sector organizations collect, use or disclose in the course of commercial activities”
 - PIPEDA was originally enacted in 2000 to regulate the collection of personal data in the course of commercial activity, especially in online commerce
 - PIPEDA does permits private sector organizations to collect, use and disclose personal information BUT ONLY for purposes that a reasonable person would consider are “appropriate” in the circumstances
 - PIPEDA applies to commercial activities in ALL provinces, except for provinces that have their own privacy laws which have been declared substantially similar to PIPEDA
 - Ontario is not one of these provinces, so PIPEDA applies here in Ontario
2. The second purpose of PIPEDA is “Protecting personal information about an employee of, or an applicant for employment with, a federally-regulated businesses”
 - By way of context, “Federally-regulated businesses” include Banks, Railways, Airlines and Broadcasters – any employee who works for one of these organizations would be covered by PIPEDA
 - This is the more relevant purpose of PIPEDA for our discussion
 - The general rule in PIPEDA is that employers in federal businesses must ensure that they collect, use, and disclose employees' personal information only for purposes that a reasonable person would consider “appropriate in the circumstances”
 - The main problem is that the term “employee” in PIPEDA does not always appear to include parties like independent contractors
 - PIPEDA takes a binary approach to “employees” – either you an employee, and you receive the benefit of the law’s privacy protections, or you are not

If a person thinks that an organization or their employer has breached PIPEDA, they can make a complaint to the Office of the Privacy Commissioner of Canada

Interestingly, Section 27.1 of PIPEDA protects federally-regulated employees who

- “whistleblow” to the Commissioner about an employer’s privacy practices, and
- employees who refuse to do something contrary to PIPEDA or act to prevent a contravention of PIPEDA

So, PIPEDA protects employees from employer reprisal as a result of the employee having acting in accordance with PIPEDA

More importantly, PIPEDA expressly states that the term “employee” in Section 27.1 includes “independent

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT & FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

contractors” - but only for this reprisal Section

For the remainder of PIPEDA, the term “employees” appear to include only traditional employees

The fact that Section 27.1 includes a reference to independent contractors shows that the drafters of PIPEDA were aware that independent contractors deserve protection from employer reprisal just like employees

However, the drafters chose not extend ALL employee protections in PIPEDA to independent contractors – only the reprisal Section of PIPEDA

This is obviously problematic because workers who are not officially “employees” may receive less protection for their privacy rights

There will clearly need to be some amendment to the use of the terms “employee” and “employment” in PIPEDA to reflect modern workplaces

The second piece of privacy legislation to touch on is FIPPA which stands for the Freedom of Information and Protection of Privacy Act

It is a provincial piece of legislation that applies to information held by public sector institutions in Ontario such as provincial government bodies, hospitals and universities

FIPPA’s two main purposes are:

1. To provide a general right of access to information, and
2. To protect the privacy of individuals

FIPPA is meant to be interpreted in accordance with three key principles:

1. Information held by the government and the broader public sector ought to be available to the public;
2. Any exemptions to and limitations on this right of access should be narrow and specific;
3. Decisions regarding whether certain information ought to be disclosed should be reviewed independently of the government (these decisions are made by Ontario’s Information and Privacy Commissioner).

While FIPPA has a very different purpose than PIPEDA, FIPPA’s privacy protections for workers who aren’t employees are limited in the same way that PIPEDA’s protections are

Specifically, FIPPA does not expressly set out that its protections for employees also cover independent contractors, or anyone else who is in a non-traditional employment relationship

This gap in the privacy protection for workers who aren’t employees can be extremely problematic in certain instances

For example, Section 49 of FIPPA states that a head of an institution, like a university, may refuse to disclose

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS ACT & FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

information if the information is compiled solely for the purpose of assessing the teaching materials or research of an employee

FIPPA does not state that independent contractors are included within the term “employee”

As a result, lesser protection is afforded to non-employees like independent contractors who may provide research or teaching materials at a university

Ultimately, the main deficiency with FIPPA and PIPEDA is that not all parties who perform work for an employer will be referred to as “employees”

Both of these pieces of legislation contain gaps in their privacy protections for workers who are not expressly considered employees

Privacy Laws Need to Address Modern Technology

Both PIPEDA and FIPPA are now over 15 years old

There is a growing recognition that these privacy laws need to be updated to address the modern workplace

For example, nowadays a “document” or a “record” is no longer just a piece of paper – a record can be an email, a text message, an instant message, and so on

Similarly, trying to ensure the security of data is threatened with the proliferation of newer workplace technologies

- We have more devices to do work on, and store sensitive data on, such as smartphones, USB keys, personal laptops, etc.
- Employers cannot control these devices very easily
- It is very easy to lose these devices, and perhaps lose very sensitive information, and the data on these devices is not necessarily password-protected or encrypted
- Plus we work remotely, on shared Wi-Fi and in public locations, much more often

Privacy legislation will need to be revised in order to stay relevant to modern workplaces

We will likely see a rise in data control mechanisms on devices used for work, such as software that can wipe all the data on a smartphone if it is lost

We may also see a rise in employers requiring employees NOT to store their personal information on work devices, and NOT to use non-work issued devices to do work

We will ultimately see privacy laws requiring that employers exercise greater control over work data

CANADA PENSION PLAN

STEPHANIE WOODWARD

EXECUTIVE DIRECTOR OF NATIONAL INSTITUTE ON AGEING, RYERSON UNIVERSITY

@RyersonNIA



Stephanie has 15 years of experience in the pension and retirement compensation industry, spanning policy, advocacy and administration.

She is currently Executive Director of the National Institute on Ageing (formerly the Pension Innovation and Research Centre) at the Ted Rogers School of Management at Ryerson University.

Prior to joining Ryerson, Stephanie was Director, Stakeholder Relations at the Ontario Pension Board, the administrator of the \$23 billion Ontario Public Service Pension Plan. Leading up to her role at OPB, Stephanie oversaw public affairs and communications at the Association of Canadian Pension Management, with responsibility for advocacy and policy development.

Stephanie is a member of the City of Toronto's Seniors Strategy Table and a founding member of the Steering Committee to establish Home Modifications Canada.

CANADA PENSION PLAN

Today, I'll take a high level look at the 3 main sources of retirement income and how they differ for traditional workers and workers in the gig economy, and how we may want to approach initiatives and policies related to pensions and the gig economy.

You're likely all familiar with the traditional three legged stool representing the 3 sources of retirement income: employer sources (pensions/retirement arrangements); government sources (CPP, OAS, GIS); and our own personal savings.

So let's take a high level look at this three legged stool from the regular employee perspective and the gig economy worker perspective (independent contractors).

Employer sources of retirement income – Regular employees may have access to a pension plan through their employer, or some other arrangement that directly contributes to their retirement savings. We know that Defined Benefit pension plans have been on the decline for a long time now, with other arrangements that are less financially risky to employers replacing them – and shifting more risk to the employee. For gig economy workers – this employer leg of the stool does not exist.

Government sources of retirement income – regular workers and their employers contribute to the Canada Pension Plan (which is a defined benefit plan, to which the employer and employee make equal contributions of approximately 5% each). For gig economy workers, as self-employed/independent contractors, contributing to CPP means paying both the employer and employee contribution (approximately 10%).

[NTD: time limitations meant no discussion of Old Age Security (OAS) and Guaranteed Income Supplement (GIS) – which are two other sources].

From a personal savings perspective - There is debate about whether there is a savings crisis – whether Canadians are, or are not, saving enough. more and more individuals delaying their personal retirement savings, not feeling able to save at all, and many heading into retirement with mortgages and debt. This leg of the stool is challenging for both regular and gig economy workers.

From a regular employee perspective, the stool may be feeling wobbly. For a gig economy worker, there is reason for concern.

So what can be done?

The gig economy isn't going anywhere. And there are a number of workforce trends impacting pensions – (phasing into retirement; working longer, portability) so much of what I'm about to talk about is relevant beyond the gig economy.

First - if employees don't value or ask for something, let's face it – the employer is not going to provide it (unless they are mandated or legislatively required to). Many Canadians don't necessarily understand – or they underestimate - the true value of employer pension benefits. Many don't understand the difference between the various pension types. And for many, immediate needs simply outweigh a desire to save for retirement. And the impact of delaying retirement savings isn't fully understood.

CANADA PENSION PLAN

[Example - most recently with the proposed Ontario Registered Pension Plan – the fact that it could be perceived as a payroll tax, when in fact it would have been a contribution to a defined benefit pension plan – making it deferred income. This demonstrates the lack of financial literacy].

So I think objective financial education is critical right now. As individuals, we need to better map out what our retirement will look like. To understand the true cost of retirement, and how we want to experience our aging process. And to understand and think through the various scenarios that may apply to us as we age. The cost of living to 90 alone in full health will look very different than a couple living to 90, with one partner living with dementia and the other living in full health. We often don't want to think about these scenarios – but it is critical that we do.

By understanding and appreciating the cost of retirement and the value of the employer leg of the stool, employees (whether gig or regular) will be more likely to advocate for change – from their employers, from government. Or, will be able to make an informed decision (as in, they'll know what they are giving up).

From a policy perspective, I think a holistic approach is key - that considers how the workforce is evolving – of which gig economy workers are one segment. The key is creating an environment – which optimizes all three legs of that stool - that allows Canadians to retire with an adequate retirement income.

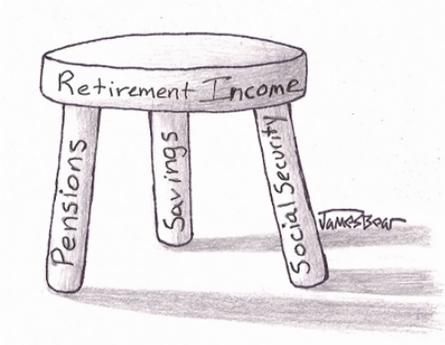


Pensions and the gig economy

AUGUST 2016



THE THREE LEGGED STOOL OF RETIREMENT SECURITY



CANADA PENSION PLAN



WHAT TO DO?

- SUPPORT INFORMED DECISION MAKING
- FINANCIAL LITERACY
- APPRECIATE THE VALUE OF PENSIONS AND BENEFITS
- WORKFORCE NEEDS TO BE ITS OWN ADVOCATE



To learn more about the NIA, please visit our website and sign up for e-notifications:

www.ryerson.ca/nia

EMPLOYMENT INSURANCE

DAN ROHDE

STAFF LAWYER, INCOME SECURITY ADVOCACY CENTRE



Dan Rohde is a staff lawyer at the Income Security Advocacy Centre, where he works on test case and Charter litigation addressing poverty and income security. Before joining ISAC, he practiced at a leading labour and employment law firm in Toronto and worked as a law clerk at the Ontario Court of Appeal. Dan also has a M.S. in Education, and worked formerly as a public school teacher in New York City.

EMPLOYMENT INSURANCE AND THE “GIG ECONOMY”

Dan Rohde
Staff Lawyer, Income Security Advocacy Centre

Overview

1. Do independent contractors / self-employed persons get EI?
2. What does this mean for the EI system?
3. Recent Attempts at Reform: is this the time for a new hope?

EMPLOYMENT INSURANCE

Background

The *Employment Insurance Act*, S.C. 1996, c. 23 creates a contributory program that provides benefits for workers, who:

- A. Lose their job
("Regular Benefits")
- A. Cannot work because they are sick
("Sickness Benefits")
- A. Take time off work to be with newly born children
("Maternity Benefits" / "Parental Benefits")
- B. Take time off work care for ill family members
("Compassionate Care Benefits"), or
- C. Are parents of critically ill children
("PCIC Benefits")

Background

The *Employment Insurance Act*, S.C. 1996, c. 23, creates a contributory program that provides benefits for workers, who:

- A. Lose their job
("Regular Benefits")
- A. Cannot work because they are sick
("Sickness Benefits")
- A. Take time off work to be with newly born children
("Maternity Benefits" / "Parental Benefits")
- B. Take time off work care for ill family members
("Compassionate Care Benefits"), or
- C. Are parents of critically ill children
("PCIC Benefits")



EMPLOYMENT INSURANCE

Part 1: Do independent contractors get EI?

As “self-employed” persons under the Act, part-time and contract workers do not pay into EI, and do not receive EI benefits.

Under the Employment-Insurance regime, an individual is deemed “self-employed” if they:

- Run their own business or a partnership;
- Control your own hours of work; or
- Work alone as an independent contractor or part-time employee.



The “Control Test”

The test for whether an individual is an “employee” or a self-employed person” under the Act considers the whole employment relationship, but puts particular emphasis on certain factors, including:

- control over the worker’s activities;
- whether the worker owns their own tools and equipment;
- whether the worker has taken on financial risk;
- whether the worker has an opportunity for profit;
- the characterization of the relationship in an employment agreement (if there is one); and
- other relevant factors.

EMPLOYMENT INSURANCE

Caveat: Opting-In to Some Benefits

Since 2011, self-employed persons have been allowed to opt-in to certain benefits in the EI system.

Benefits available include: Maternity and Parental Benefits, Sickness Benefits, Compassionate Care Benefits, and PCIC Benefits.

However, there are some **conditions**:

1. There is a 12-month waiting period;
2. The Applicant must have made at least \$6,000 in income in the calendar year before the claim is made; and
3. The Applicant must commit to making contributions to EI as long as their "self-employed career lasts.

(Note: This list does **not** include Regular Benefits.)

Service Canada's Info Sheet can be found here:

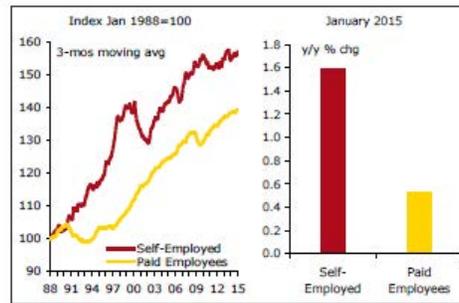
http://www.esdc.gc.ca/en/reports/ei/self_employed_special_benefits.page

Part 2: What does this mean for the system?

Major trend toward precarious employment.



Chart 3
Paid Employees vs. Self-Employed

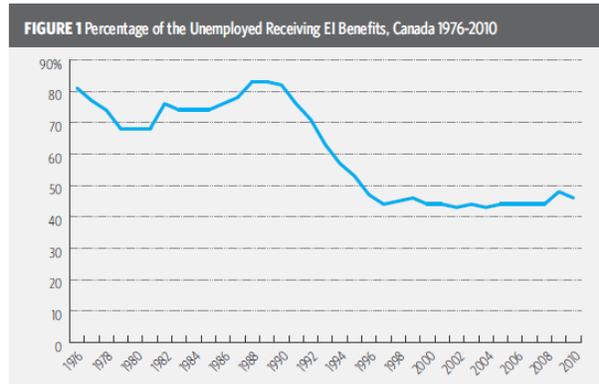


Source: CIBC calculations based on Statistics Canada's tabulations

CIBC Economics, *Canadian Employment Quality Index*, March 5, 2015: http://research.cibcwm.com/economic_public/download/eqi_20150305.pdf

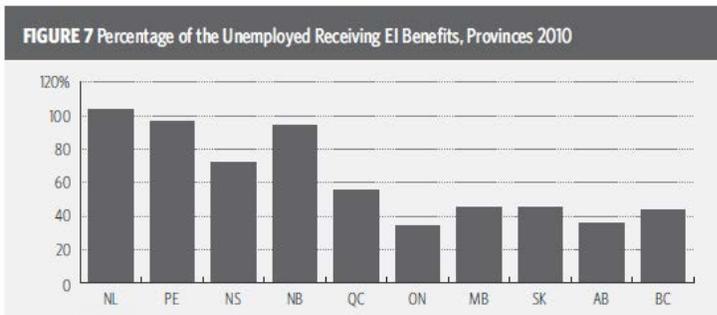
EMPLOYMENT INSURANCE

A System in Crisis



Mowat Centre for Policy Innovation, *Making it Work: Final Recommendations of the Mowat Centre Employment Insurance Task Force*, University of Toronto, 2011: <http://www.mowateitaskforce.ca/sites/default/files/MakingItWork-online.pdf>

Considerable Provincial Discrepancies



Source: CANSIM Tables 2820087 and 2760001
Notes: The data expressed above (and in Figure 1) can over- and under-count the percentage of the unemployed receiving support. Some EI beneficiaries are not counted as unemployed (e.g. those working while receiving EI). As a result, more than 100 per cent of the unemployed can appear to be receiving benefits. Additionally, those counted as unemployed and not receiving EI may receive other benefits such as social assistance. Still, this figure provides a powerful comparison of the operation of EI across provinces.

Mowat Centre for Policy Innovation, *Making it Work: Final Recommendations of the Mowat Centre Employment Insurance Task Force*, University of Toronto, 2011: <http://www.mowateitaskforce.ca/sites/default/files/MakingItWork-online.pdf>

Part 3: Recent Attempts at Reform: is this the time for a New Hope?

Not so long ago, in a country known as Canada...

Employment Insurance, Episode IV A New Hope

There is the possibility of great changes to Canada's social safety net. Prime Minister Trudeau was recently swept to a surprise majority government, in part on promises to reform Employment Insurance.

Having seen several positive changes in the recent federal budget, there is reason for hope, but also still considerable uncertainty as to what the future may bring.

EMPLOYMENT INSURANCE

Major Federal Budget Changes to EI

- New-entrants and re-entrants into the EI system will have the same eligibility criteria in terms of hours worked as other claimants in their region. (i.e. People new to EI will not longer face a higher qualifying-hour requirement!)
- The government will extend duration of EI regular benefits by 5 weeks in 12 EI economic regions with the most severe increases in unemployment up to a maximum of 50 weeks. This will apply to “northern Ontario” and is to start in July 2016, retroactive to January 4, 2015.
- Extended duration for “long-tenured” workers by 20 weeks in the same 12 EI economic regions, up to a maximum of 70 weeks.
- Increased funding for Service Canada and call centres to meet increased demand for EI claims.
- The wait period for EI will be reduced to one week from two weeks.



- The government will make “Compassionate Care Benefits easier to access, more flexible and more inclusive for those who provide care for seriously ill family members, and providing more flexibility in parental leave benefits to better accommodate unique family and work situations.” No specifics on how this will be done have been provided yet.
- Extended “work sharing agreements” from 38 weeks to 76 weeks across Canada. Work-Sharing helps employers and employees avoid layoffs when there is a temporary reduction in the normal level of business activity beyond the control of the employer. Work-Sharing is meant to provide income support to employees eligible for EI who work a temporarily reduced work schedule.
- Claimants will not be required to accept work at lower pay and with longer commute times.

You can find the full text of the federal budget here:

<http://www.budget.gc.ca/2016/docs/plan/budget2016-en.pdf>



Next Steps & Lingered Uncertainty

- HUMA Report on EI (June, 2016)
- EI Service Quality Review (ongoing)
- Further reform?



Thank you for attending

**MAY THE FORCE BE
WITH YOU**



WORKERS' COMPENSATION

MIREILLE GIROUX

ASSOCIATE, KOSKIE MINSKY LLP

[@kmlawllp](#)



Mireille is an associate lawyer in the Koskie Minsky Labour Group. She is dedicated to representing trade unions' and employees' best interests in a broad range of labour and employment matters, including grievance arbitration, labour board proceedings, human rights complaints, and workplace safety and insurance appeals.

Mireille received her Juris Doctor from the University of Toronto. During her studies, she was a caseworker at the Advocates for Injured Workers legal clinic where she acted on behalf of workers in their dealings with the Workplace Safety and Insurance Board. She also participated in the Kawaskimhon National Aboriginal Rights Moot and worked at the Centre for Equality Rights in Accommodation as a recipient of the Donner Civic Leadership Fellowship.

WORKERS' COMPENSATION

Historic principles

Workers' compensation schemes came in across Canada following a report commissioned by the Province of Ontario. Sir Meredith's 1913 report called for what has since been referred to as "the historic compromise."¹ Workers and employers both waive the right to sue one another over workplace injuries, but the government sets up a no-fault insurance scheme to ensure that injured workers receive benefits to compensate for their injuries and to make up for lost wages.

Three key principles from Sir Meredith's report are:

1. "No-fault compensation": This means that workers covered by the scheme receive benefits for workplace injuries no matter how the injury occurred—even if the injury occurred because the worker was careless.
2. "Security of benefits": This means that a central fund is established to guarantee funds exist to pay benefits, even if the injury occurred in a workplace where the individual employer did not have the funds to adequately compensate the injured worker.
3. "Collective liability": This means that employers covered by the scheme share the cost of workplace injury insurance.

The situation today

Today in Ontario, workplace insurance is covered by the Workplace Safety and Insurance Board (WSIB). Injured workers lost wages are compensated for by "Loss of Earnings" benefits, and injured workers who suffer permanent injuries are compensated for the injury itself through "Non-Economic Loss" awards.

The system is not perfect—in fact, there are a lot of problems. But the biggest problem from the perspective of workers in the gig economy is that they may not be covered at all.

Who is covered?

Schedules I & II of the *Workplace Safety and Insurance Act (WSIA)* sets out which workplaces are covered by Ontario's workplace insurance. The majority of workplaces are covered, and some gig-economy workers are also covered.

Paid interns are covered as regular employees as long as they are working in an industry set out in Schedules I & II. Unpaid interns are classified as "learners" under the *WSIA* and are also covered by the scheme.²

Seasonal workers, and workers employed through temp agencies are also covered as long they are working in an industry set out in Schedules I & II. Although it is important for seasonal workers and temp workers to keep detailed records of their earnings so that the WSIB is able to calculate Loss of Earnings benefits.³

Who is not covered?

Certain industries—like banking, and law—are excluded.

WORKERS' COMPENSATION

One contentious exclusion is farm workers. The exclusion is justified by the idea that small family farms cannot afford to pay WSIB premiums—but as many people will know, working on a farm can be dangerous and the result is that farm workers' right to compensation is undermined. The exclusion also means that all temporary farm workers are equally excluded. Interestingly, Alberta lifted its exclusion of some farm and ranch workers on January 1, 2016.⁴

Finally, anybody who can rightly be classed as an "independent contractor" instead of an "employee" is not covered. As was discussed this morning, the line between independent contractor and employee is being tested as the gig economy grows. Whether Uber drivers should be considered "employees" at law, for instance, is readily debateable. For now, though, so long as you do not have an employer required to pay into Ontario's workers' compensation scheme you will not be covered by that scheme if you are injured on the job.

What can you do if you're not covered?

First, if you are an independent operator, a sole proprietor, or a partner in a partnership carrying on a business in an industry included in Schedule I or II (other than construction) then you can *opt-in* to WSIB coverage.⁵ If you have opted in, you are treated as any other worker under the scheme.

Workers not covered by the scheme retain the right to sue their employer following a workplace injury, but this may be impractical for a number of reasons:

- you may not be able to afford litigation
- your employer may not have sufficient resources to compensate you if you win in court
- you need to prove that your employer was negligent
- and depending on your job it may be difficult for you to point to an employer

You should ensure that you are contributing to Employment Insurance and the Canada Pension Plan. Both plans provide coverage in the event of injury or illness. In traditional employment relationships employers are required to deduct EI and CPP payments from employee's paycheques ensuring that employees are covered. If you are working in the gig economy, you will need to make those contributions yourself or you won't be entitled to benefits in the event that you are sick or injured.

You should also look into private disability insurance. This will require shopping around—looking into different packages, etc. But it should be possible to find something that will provide adequate coverage in the event that you are off the job due to injury.

¹ Association of Workers Compensation Boards of Canada, "History", online: < <http://bit.ly/2bll11n>>

² Workplace Safety and Insurance Board, "Operation Policy Manual 12-04-04: Individuals on Unpaid Training Placements."

³ Workplace Safety and Insurance Board, "Reporting earnings for workers with varied work patterns", online: < <http://bit.ly/2bBryaw> >

⁴ Workers' Compensation Board Alberta, "Farming Coverage", online: < <http://bit.ly/2b2y3Ba>>

⁵ Workplace Safety and Insurance Board, "Optional Insurance", online: < <http://bit.ly/2b00uVm> >

SUCCESSFULLY NAVIGATING AN EVER CHANGING EMPLOYMENT LANDSCAPE

CARRIE BADAME

RELATIONSHIP LEAD OF CAREER STRATEGY, HAZELL & ASSOCIATES

[@hazelcoaching](#)



Carrie Badame is the Relationship Manager, Career Strategy at Hazell & Associates, a boutique leadership and career strategy firm based in Toronto. In addition to her passion for career coaching, Carrie brings 20 years of business experience in multiple industries, specializing in branding & marketing.

SUCCESSFULLY NAVIGATING AN EVER CHANGING EMPLOYMENT LANDSCAPE



Hazell & Associates
Career Partners International

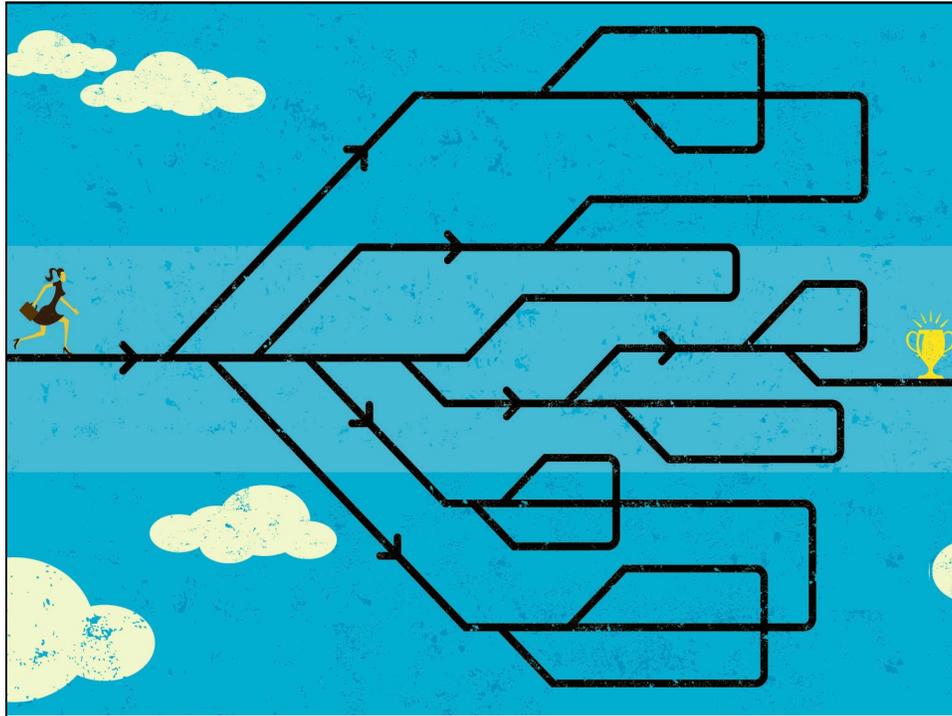
Carrie Badame
Relationship Lead, Career Strategy
Hazell.com

Hazell & Associates is a boutique firm focused on Leadership Development, Executive Coaching, Career Management and Career Transition. As part of my role, I coach participants who are in career transition and help them successfully navigate an ever changing employment landscape.

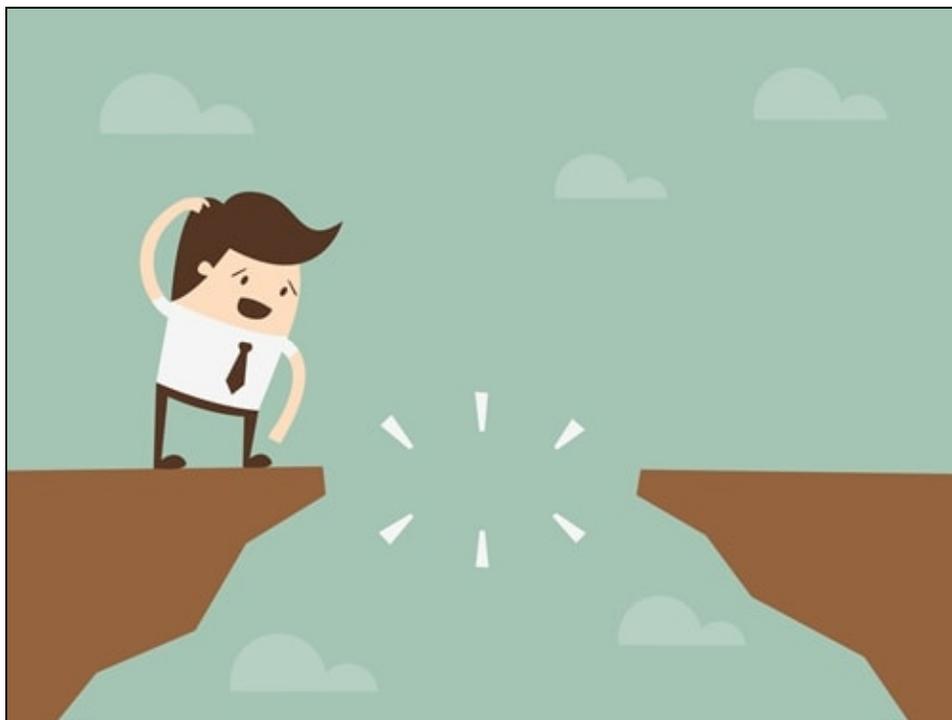


Instead of climbing a career ladder, job Security is no longer linked to tenure of seniority or role but now linked to personal competence and adaptability.

SUCCESSFULLY NAVIGATING AN EVER CHANGING EMPLOYMENT LANDSCAPE



We now find ourselves in a team based fluid matrix model, where the structure is not based on hierarchy and defined roles, but instead on the work that need to be done.



The expectation today is that as a worker, you are responsible for navigating your own career plan. However the issue that workers face is that career planning is not innate, it needs to be taught and supported throughout the lifespan of a career and into retirement.

SUCCESSFULLY NAVIGATING AN EVER CHANGING EMPLOYMENT LANDSCAPE

It is no longer about
CHOOSING
a career, but
CONSTRUCTING
the right career for you.

We now all need to operate as our own small business “company of me” bringing a dynamic, proactive, adaptable approach to work, where we wear many hats. Skills of what we used to call entrepreneurship has become mandatory, even inside an establish company.



Like a successful business, the job seeker and career planner needs to be outward and customer focused. They must find an unmet need in the market or a unique way to deliver a service and know how your unique set of skills & experience can value for an employer.

SUCCESSFULLY NAVIGATING AN EVER CHANGING EMPLOYMENT LANDSCAPE

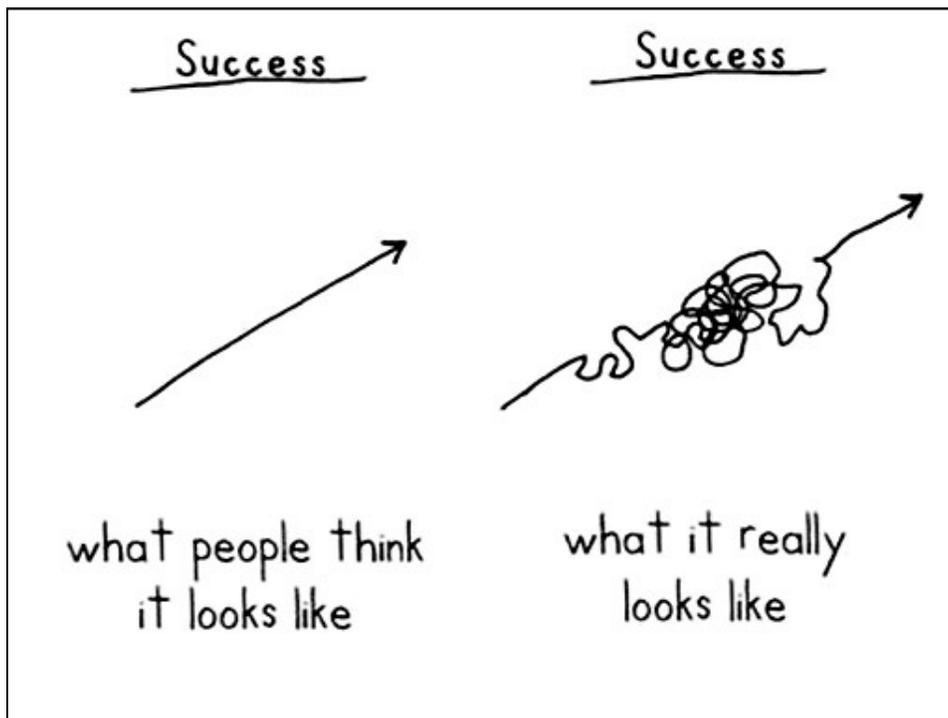


Layered on to these are the essential soft skills of collaboration, client management, flexibility and resilience– how to effectively work within interdisciplinary teams and across functional areas.

Strategies and Resources: Thought Starters

- **All this being said, how can we weave this into existing strategies and resources for job seekers and key stakeholders**
- Job seekers including Mid-career professionals and new grads.
- Take advantage of free resources for small business planning in your community and leverage for your career management
- Utilize existing resources on campus that focus on start-ups, small business and entrepreneurship to help you decide on your next step, like DMZ
- Both Establish a professional presence and show thought leadership using Social media, build a portfolio based on your current interests and experience
- Guidance & Career Centres at high school & post-secondary level:
- Bring in career coaches with business experience and knowledge of entrepreneur process to host seminars
- Give students more exposure to those who have chosen careers that are primarily based in the gig economy? Mentorship programs in industries have the highest concentration of non-standard employment like arts, entertainment, hospitality and tech.
- Offer financial literacy education as part of career planning
- Teach more technical skills will be on how to work on virtual teams, collaborate and share content on-line
- HR managers:
- Career coaches are going to be more common support resource, like an accountant or financial planner, invest in career coaches with business experience to support in-house career planning initiatives.
- Use technology to provide access to menu of Professional Development (Skills, Regulations, Health & Wellness) that are already developed and available to F/T workers (low cost/low investment)

SUCCESSFULLY NAVIGATING AN EVER CHANGING EMPLOYMENT LANDSCAPE



The future of work is full of uncertainty but taking control and putting yourself in the drivers seat as CEO Of your "Company of Me" will put you in a position of strength and confidence to ride this rollercoaster of change successfully.

Hazell & Associates
Career Partners International

Thank you!

THE EVOLUTION OF THE CAREER PATH

DAN KENNEDY

MANAGER OF BUSINESS CAREER HUB, RYERSON UNIVERSITY

@dandankennedy



Dan Kennedy is the Manager of the TRSM Business Career Hub. In addition to working with post-secondary students, Dan has worked with the Youth Employment Services and the Canadian Paraplegic Association. He has worked with marginalized and diversity groups to support pre-employment, job search and career growth.

Dan has an MBA in the Management of Innovation and Technology from the Ted Rogers School of Management. His work and research centers on how technology and social media have influenced today's workplace. In his current role as Manager of the TRSM business Career Hub, he works to engage key stakeholders within TRSM and to ensure the continued success of TRSM

students and programs.

THE EVOLUTION OF THE CAREER PATH

The Evolution of the Career Path

By
Dan Kennedy

✉ dan.kennedy@ryerson.ca

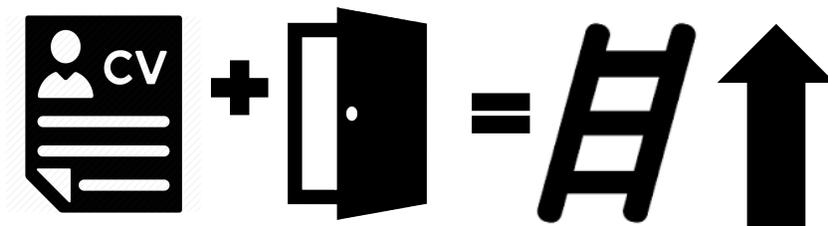
🐦 @dandankennedy



Baby Boomers



Born between 1940's and 1960's
Started entering the workforce in 1950's
Significant impact on Canadian life and work

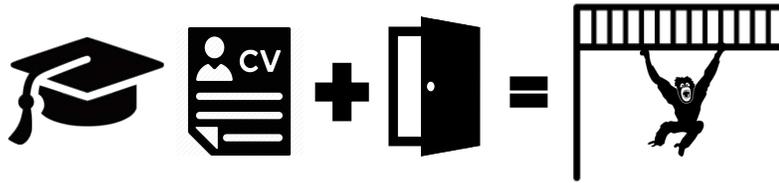


THE EVOLUTION OF THE CAREER PATH

Generation X



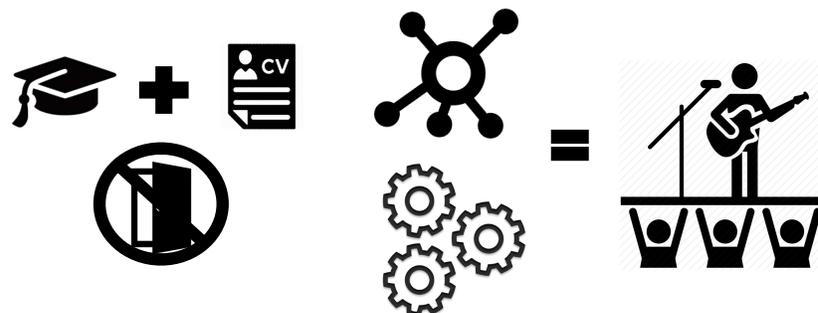
Born between 1960's and 1980's
Started entering the workforce in 1970's
The smallest of the workplace generations



Millennials



Born between 1990's and early 2000's
Started entering the workforce in 2010's
AKA the "Peter Pan" or "Boomerang" generation



THE EVOLUTION OF THE CAREER PATH



Generation Z

Not yet well defined
Some members have already begun working
Expected to be highly technological literate



SKILLS AS BUILDING BLOCKS IN THE GIG ECONOMY

ANICA VASIC

MANAGER OF MAGNET, RYERSON UNIVERSITY

[@MagnetToday](#)



Anica is currently a Project Manager for Magnet, at Ryerson University. Magnet is an inventive, not-for-profit technology hub. It was created to address unemployment and underemployment for diverse groups of Canadians, including youth, persons with disabilities, Aboriginal peoples, LGBTQ and newcomers to Canada. Magnet now serves all Canadians and utilizes an advanced blind recruitment model that can effectively, and efficiently job match people with opportunities reflecting their skills, preferences and talent.

Prior to joining Magnet, Anica worked as a Career Consultant at Ryerson University where she had hands on experience coaching hundreds of students in their school to work transition. She has an expertise in the ability to translate applied skills to real-labour market needs, helping graduates launch their careers. Anica holds a Bachelors of Commerce from Ryerson University and a Master of Industrial Relations and Human Resources from the University of Toronto.

SKILLS AS BUILDING BLOCKS IN THE GIG ECONOMY



Leveraging Skills Gained in The Gig Economy for Career Success

- Skill: The ability, coming from one's knowledge, practice, aptitude, etc., to do something well.
- Workers now more than ever need to showcase the skills they are developing in the Gig Economy if they wish to secure stable employment and advance their careers.

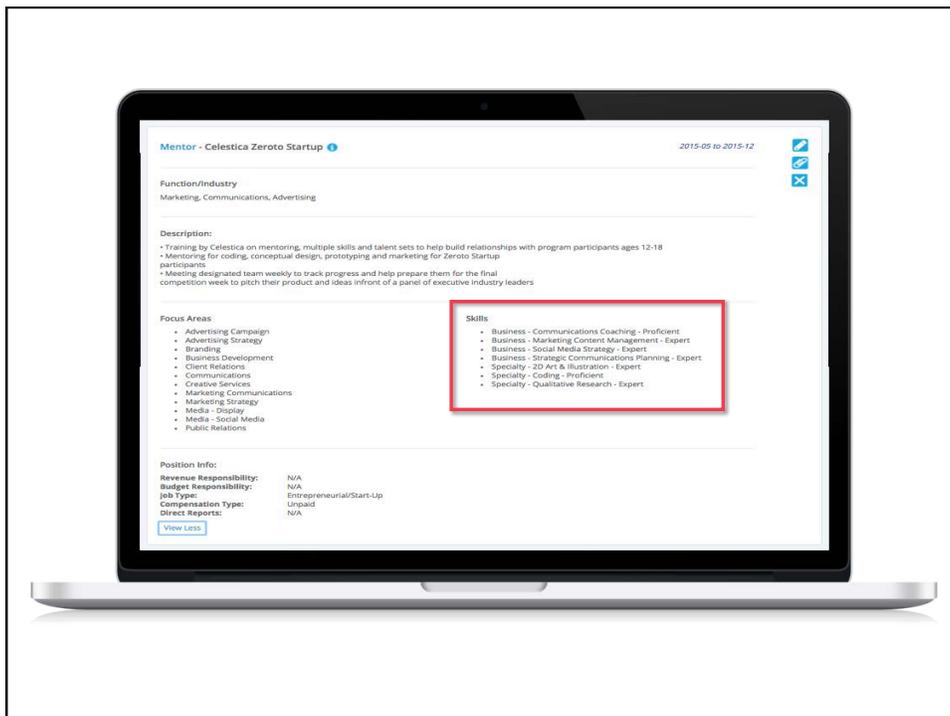


SKILLS AS BUILDING BLOCKS IN THE GIG ECONOMY

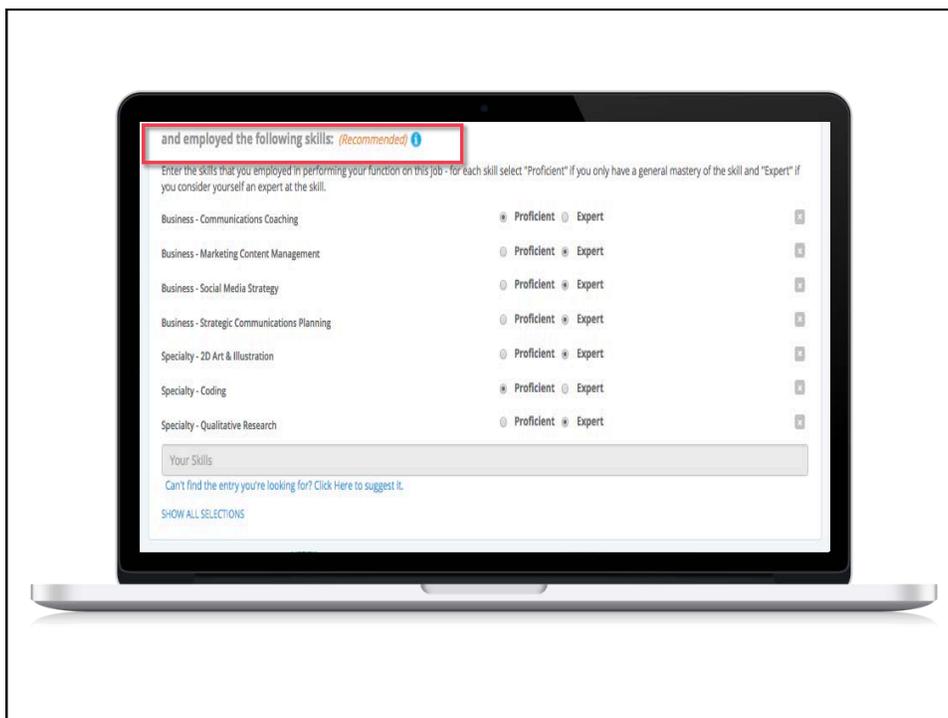
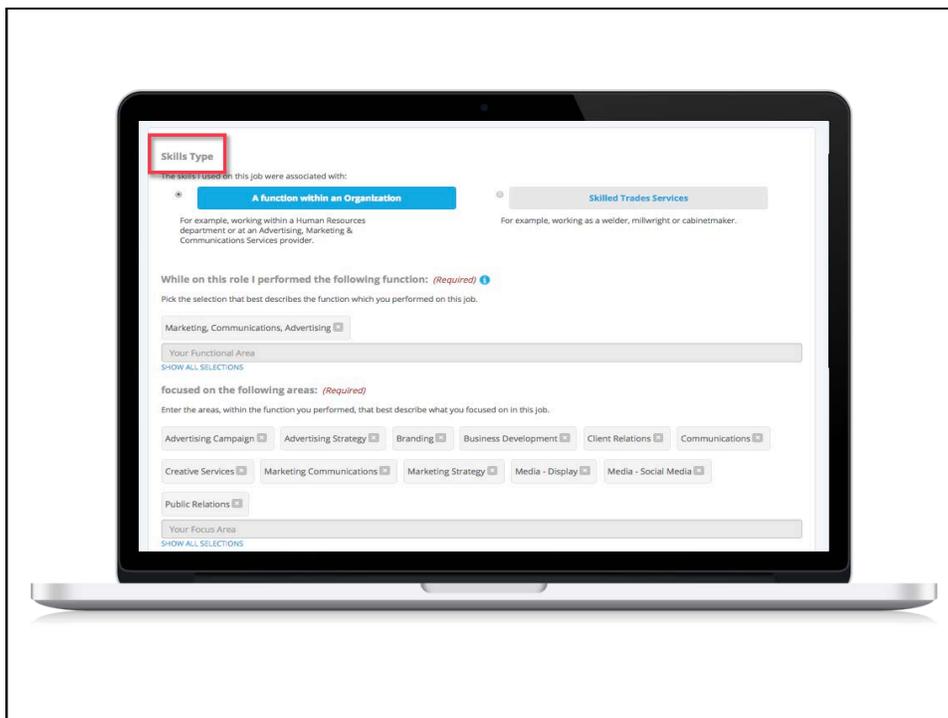
Magnet's Approach to Showcasing Skills

Leveraging technology to allow:

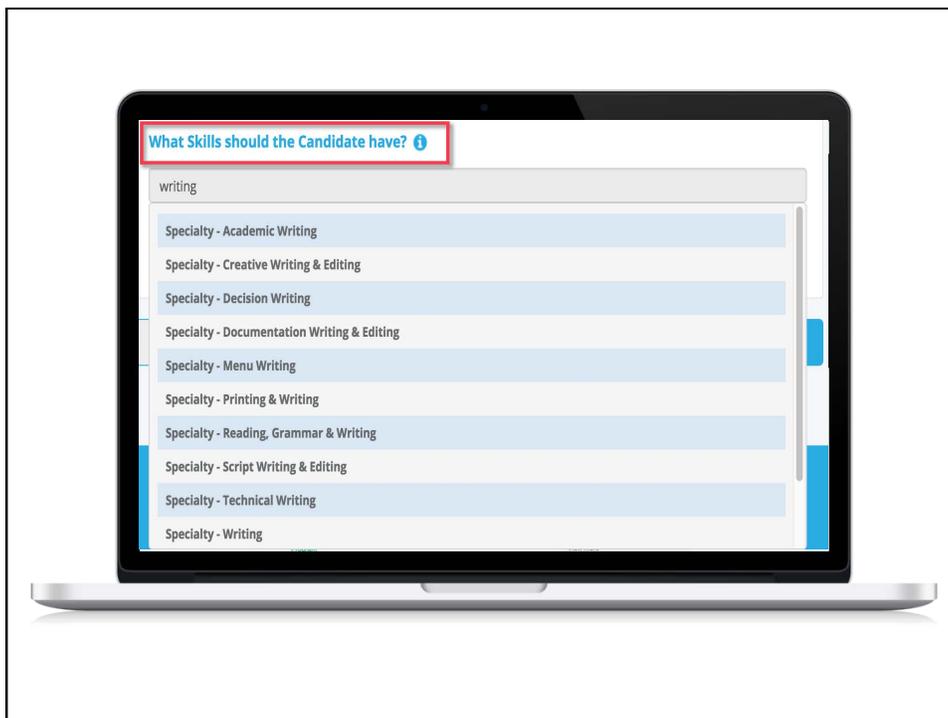
- Workers to easily showcase the skills they gained in each gig/ work experience
- Employers to search for talent based on the required skills
- Effective matching of skills sets and skill requirements



SKILLS AS BUILDING BLOCKS IN THE GIG ECONOMY



SKILLS AS BUILDING BLOCKS IN THE GIG ECONOMY



Advice for the Gig Worker

1. Define your skill set
2. Use innovative tools to showcase the skill set to employers
3. Leverage the skill set for career advancement



M
Magnet

SKILLS AS BUILDING BLOCKS IN THE GIG ECONOMY



Magnet invites you to showcase your and connect to opportunities by signing up at www.magnet.today

 Magnet.Today  Magnet.Today  Magnet.Today

SPONSORS

ALL CLMR EVENTS, PROGRAMS AND RESEARCH ARE MADE POSSIBLE THROUGH THE GENEROUS DONATIONS OF OUR NOT-FOR-PROFIT, PRIVATE AND PUBLIC SECTOR SPONSORS.



All employers of choice and award-receiving labour unions are encouraged to demonstrate their commitment to avoiding conflicts, building relationships, and creating trust in a way that results in greater productivity and profitability for businesses, improved job and income security for workers, and decreased inequality and injustice for all of society by supporting the CLMR.

To inquire about sponsoring the CLMR please contact us at clmr@ryerson.ca or 416.979.5000 ext. 2379 / 2495.

THE TED ROGERS SCHOOL OF MANAGEMENT'S
CENTRE FOR LABOUR MANAGEMENT RELATIONS
AT RYERSON UNIVERSITY

“

**PROMOTES
COLLABORATIVE,
ETHICAL, INNOVATIVE,
PROACTIVE AND
SUSTAINABLE BEST
PRACTICES**

**FOR LABOUR AND MANAGEMENT TO WORK BETTER TOGETHER IN A WAY THAT
RESULTS IN GREATER PRODUCTIVITY AND PROFITABILITY FOR BUSINESSES,
IMPROVED JOB AND INCOME SECURITY FOR WORKERS, AND DECREASED
INEQUALITY AND INJUSTICE FOR ALL OF SOCIETY.**

”