

November 30, 2016

Looking for a nanny? – Consider your legal obligations and responsibilities as an employer

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For parents of children with severe allergies, whose children are very close in age, or parents of multiple children, hiring a nanny is sometimes the only option to consider for a planned return to work. For others, it is a decision based on financial ability and convenience. Whatever your reason for hiring a nanny, it is important to consider your legal obligations and responsibilities as an employer.

Provincial and Federal obligations

At the very least, you must ensure that you comply with the requirements of the *Employment Standards Act, 2000* (the “ESA”). Such requirements include, payment of regular wages, hours of work, as well as proper record keeping.

In addition to your minimum obligations under the ESA, you may also need to register and pay premiums to the Workplace Safety and Insurance Board (“WSIB”). If your nanny works less than a certain number of hours per week you may not be required to register or pay WSIB premiums. It is always a good idea to check with the WSIB prior to hiring a nanny, in order to ensure that you are in compliance with your obligations as an employer.

At the federal level, if you don't already have one, you will need to register for a business number with the Canada Revenue Agency (“CRA”). In addition, you will be required to make certain remittances on behalf of your employee(s), such as for CPP and EI deductions.

As the employer, you will also be required to pay the employer portion of such remittances.

Both the CRA and the WSIB websites offer information on the various obligations and responsibilities of employers, including the deadlines by which the remittances and the payment of premiums must be made.

Paying wages and preparing income tax documents

Nanny job placement websites sometimes offer “payroll services”. For a monthly fee, the company operating the website can handle all of your payroll obligations from the registration of your CRA business number to the yearly issuance of a T4 slip for income tax purposes.

Alternatively, you can manage your own payroll service by using online tools such as the CRA's remittance calculator. This free tool allows you to determine the amounts you need to remit for your employee(s), as well as the employer portion of the remittances.



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Employment Agreement

One of the most important aspects of hiring a nanny is to clearly set out your expectations. The best way to ensure this is to have a written employment agreement. In the employment agreement, you will be able to specify the nanny's schedule, the rate of pay, the pay schedule, what happens when the children or the nanny are sick, vacation time, termination of employment, etc.

Some nanny websites offer sample employment agreements. However, be mindful of the location of these websites. Some are based in the United States and incorporate in their sample contracts employment provisions that are specific to the United States or another jurisdiction.

When preparing an employment agreement for a nanny, it is better to obtain legal advice to ensure that you are respecting your legal obligations and responsibilities. You may also ask a lawyer to draft an employment agreement. By obtaining legal advice you can rest assured that you are complying with the applicable laws and regulations, as well as protecting yourself in the event of a legal dispute.

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