

Contract Labour

Sole Proprietorship

Relevant Federal Acts and Regulations

and

Court Decisions

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Introduction

The rights of an individual are central to a discussion of contract labour engagement.

The section on Constitutional Legislation highlights sections from two Constitutional Acts and excerpt from the International Covenant, ratified by Canada, additionally an official comment to the Treaty, relative to the general right for Social Security.

The section on Canada's Social Programs highlights the clauses within those respective acts and regulations, which again relate to the rights of the person.

The section on court cases, introduces two Federal Court of Appeal cases, which dealt with a person's right to participate in Canada's social programs and a Placement Agency obligation as the employer of record to administer the individual's premium contributions while also contributing the employer's premiums for these two programs. The message to all placement agencies further clarified the obligations of placement agencies in this matter.

Constitutional Legislation

1867 Canadian Constitution Act

According to the Canadian Constitution the Parliament and Government of Canada shall take all the necessary actions to comply with the Treaties signed and ratified between Canada and foreign countries (Section 132 of the Constitutional Act 1867). This supports the obligation of Canadian Government to guarantee the involvement in employment insurance program of all the Canadian citizens, regardless of the form of their employment, as the right of Social Security, which includes social insurance, stipulated in Canadian Constitution as well as International Covenant on Economic, Social and Cultural Rights.

1976 International Covenant on Economic, Social and Cultural Rights

This right was reinforced when the Canadian government ratified the International Covenant on Economic, Social and Cultural Rights (signed and ratified on May 19th 1976) which states that The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance (Article 9).

1982 Canadian Charter of Rights and Freedoms

As stated earlier The Canadian Constitution (Constitution Act 1982, Article 7) stipulates that everyone has the right to life, liberty and security of the person.

2008 General Comment No.19 – The right to social security (art.9)

Economic and Social Council of UN further prepared a General Comment to the article no. 9 (The right of social security) to give a more detailed explanation of what would be included in the right of social security, and all the necessary steps that State Countries should take to reinforce it properly.

Canada's Social Programs

Employment Insurance

Employment Insurance Act

Section 4(g) enables Commission to include in insurable employment individuals who are not employed under the contract of service, but the nature of work as well as the terms and condition are similar to those under the contract of service. Justice Heald J. (Jean Sheridan O/A Accent Nurses Registry v. M.N.R.) relied on this section, determining that 12(g) of Unemployment Insurance Regulations (6(g) of EI regulations) will be applicable to the self-employed individuals, including them into insurable employment.

Section 6(g) of the Employment Insurance Regulations (which is identical to the previous 12(g) of the Unemployment Insurance Regulations) includes self-employed individuals into insurable employment. Justices in the further court cases relied upon this section in making their decision regarding insurability of the self-employed individuals.

4 elements of the relationship are necessary to make this section applicable:

1. There must be employment of a person;
2. That person must have been placed in that employment by a placement or employment agency;
3. That person performed services under the direction and control of a client of the agency;
4. That person was remunerated by the Agency for the performance of those services.

It is necessary to understand all the nuances regarding self-employed individuals and highly-skilled workers during analysis of the elements outlined above.

Section 7 of the Insurable Earnings and Collection of Premiums Regulations confirms the status of the placement or employment agency as a deemed employer of the person placed in insurable employment by placement or employment agency.

Canada Pension Plan

Canada Pension Plan includes self-employed persons into Pensionable employment regardless of whether individual was placed in that employment by employment or placement agency.

Federal Court of Appeal

Canadian Courts recognize the right of Canadian citizens to participate in Canada's social programs. This right is supported by two relevant court cases cited further.

In both decisions, the courts recognized Placement Agencies as an employer where those Placement Agencies engage the services of individuals who are then "placed" into a contract relationship with the end client of the Placement Agency.

1985 Accent Nurses Registry v MNR

In Jean Sheridan O/A Accent Nurses Registry v. M.N.R. (March 12, 1985, Toronto) the courts made the decision under the then current Unemployment Insurance Regulations paragraph 12(g), which is identical to section 6(g) of current Employment insurance regulations.

Justice Heald J. through his in-depth analysis confirmed that workers who deliver their services as independent contractors having been placed in that employment (which includes business, trade or occupation) by an employment or placement agency that remunerates them are included in insurable employment. The type of contract (whether Contract OF Services or a Contract FOR Service) was not a determinant in this relationship.

Message to All Placement Agencies

This message, issued by the Ministry of National Revenue (MNR) communicated the government's directions relative to Placement Agency's obligations as the employer of record where they employ and remunerate a person.

Subsequent to the issuance of this message, the Government's Guide to Employers added directions to placement agencies to put the text "Code 11 – Placement Agency/S.E." on the T4s issued by the Placement Agency to the contracted worker. More recent directions have the Placement Agency now adding the text "Code 11" in Box 23

Part of the significance of the message to all placement agencies was that in it, the MNR refers to the relationship (i.e. "employ and remunerate") as opposed to using the word "Placed". This text clarifies the intent of the government in this matter thereby dispelling any suggestion that where the person is not "placed" into the contract by the Placement Agency that this is somehow eliminates the insurability of the individual/person.

2003 Central Registry of Graduate Nurses v MNR

In a more recent Court of Appeal case Central Registry of Graduate Nurses v. M.N.R., 2003 TCC 822, which was, according to the Justice, almost identical to the previous case, Justice MacLachy D.J, agreed with and confirmed the decision made by Justice Heald J. in the Jean Sheridan O/A AccentNurses Registry v. M.N.R. case.

CONSTITUTION ACT, 1867

30 & 31 Victoria, c. 3 (U.K.)

Treaty Obligations

132. The Parliament and Government of Canada shall have all Powers necessary or proper for performing the Obligations of Canada or of any Province thereof, as Part of the British Empire, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.

International Covenant on Economic, Social and Cultural Rights

New York, 16 December 1966

May 19th 1976 – Canada signed and ratified

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

CONSTITUTION ACT, 1982 (80)

PART I

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

LEGAL RIGHTS

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.



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AND CULTURAL RIGHTS
Thirty-ninth session
5-23 November 2007

GENERAL COMMENT NO. 19¹

The right to social security (art. 9)

¹ Adopted on 23 November 2007.

3. Workers inadequately protected by social security (part-time, casual, self-employed and homeworkers)

33. Steps must be taken by States parties to the maximum of their available resources to ensure that the social security systems cover workers inadequately protected by social security, including part-time workers, casual workers, the self-employed and homeworkers. Where social security schemes for such workers are based on occupational activity, they should be adapted so that they enjoy conditions equivalent to those of comparable full-time workers. Except in the case of employment injury, these conditions could be determined in proportion to hours of work, contributions or earnings, or through other appropriate methods. Where such occupation-based schemes do not provide adequate coverage to these workers, a State party will need to adopt complementary measures.

4. Informal economy

34. States parties must take steps to the maximum of their available resources to ensure that the social security systems cover those persons working in the informal economy. The informal economy has been defined by the International Labour Conference as “all economic activities by workers and economic units that are - in law or in practice - not covered or insufficiently covered by formal arrangements.”²⁸ This duty is particularly important where social security systems are based on a formal employment relationship, business unit or registered residence. Measures could include: (a) removing obstacles that prevent such persons from accessing informal social security schemes, such as community-based insurance; (b) ensuring a minimum level of coverage of risks and contingencies with progressive expansion over time; and (c) respecting and supporting social security schemes developed within the informal economy such as micro-insurance and other microcredit related schemes. The Committee notes that in a number of States parties with a large informal economy, programmes such as universal pension and health-care schemes that cover all persons have been adopted.

5. Indigenous Peoples and Minority Groups

35. States parties should take particular care that indigenous peoples and ethnic and linguistic minorities are not excluded from social security systems through direct or indirect discrimination, particularly through the imposition of unreasonable eligibility conditions or lack of adequate access to information.

6. Non-nationals (including migrant workers, refugees, asylum-seekers and stateless persons)

36. Article 2, paragraph 2, prohibits discrimination on grounds of nationality and the Committee notes that the Covenant contains no express jurisdictional limitation. Where non-nationals, including migrant workers, have contributed to a social security scheme, they should

²⁸ Conclusions concerning decent work and the informal economy, General Conference of the International Labour Organization, 90th session, para. 3.

Employment Insurance Act

S.C. 1996, c. 23

Assented to 1996-06-20

"self-employed person"
« travailleur indépendant »

"self-employed person" means an individual who

- o (a) is or was engaged in a business; or
- o (b) is employed but does not have insurable employment by reason of paragraph 5(2)(b). (the employment of a person by a corporation if the person controls more than 40% of the voting shares of the corporation)

INSURABLE EMPLOYMENT

(4) The Commission may, with the approval of the Governor in Council, make regulations for including in insurable employment

(c) employment that is not employment under a contract of service if it appears to the Commission that the terms and conditions of service of, and the nature of the work performed by, persons employed in that employment are similar to the terms and conditions of service of, and the nature of the work performed by, persons employed under a contract of service;

Employment Insurance Regulations

SOR/96-332

[EMPLOYMENT INSURANCE ACT](#)

Registration 1996-06-28

INSURABLE EMPLOYMENT EMPLOYMENT INCLUDED IN INSURABLE EMPLOYMENT

6. Employment in any of the following employments, unless it is excluded from insurable employment by any provision of these Regulations, is included in insurable employment:

(g) employment of a person who is placed in that employment by a placement or employment agency to perform services for and under the direction and control of a client of the agency, where that person is remunerated by the agency for the performance of those services.

Insurable Earnings and Collection of Premiums Regulations

(SOR/97-33)

Regulations are current to 2014-09-01 and last amended on 2014-06-19.

Enabling Act: EMPLOYMENT INSURANCE ACT

PLACEMENT OR EMPLOYMENT AGENCIES

7. Where a person is placed in insurable employment by a placement or employment agency under an arrangement whereby the earnings of the person are paid by the agency, the agency shall, for the purposes of maintaining records, calculating the person's insurable earnings and paying, deducting and remitting the premiums payable on those insurable earnings under the Act and these Regulations, be deemed to be the employer of the person.

Canada Pension Plan

R.S.C., 1985, c. C-8

An Act to establish a comprehensive program of old age pensions and supplementary benefits in Canada payable to and in respect of contributors

Contributions by Persons in respect of Self-Employed Earnings

Marginal note: Amount of contribution in respect of self-employed earnings

• 10. (1) Every individual who is resident in Canada for the purposes of the Income Tax Act during a year and who has contributory self-employed earnings for the year shall make a contribution for the year of an amount equal to the product obtained when the contribution rate for self-employed persons for the year is multiplied by the lesser of

- (a) the individual's contributory self-employed earnings for the year, minus the amount by which the individual's basic exemption for the year exceeds the aggregate of
 - (i) all amounts deducted as prescribed on account of the individual's basic exemption for the year whether by one or more employers pursuant to section 8, and
 - (ii) all amounts deducted as prescribed by or under a provincial pension plan on account of any like exemption for the year whether by one or more employers pursuant to that plan, and
- (b) the individual's maximum contributory earnings for the year, minus the individual's salary and wages, if any, on which a contribution has been made for the year and such amount, if any, as is determined in prescribed manner to be the individual's salary and wages on which a contribution has been made for the year by the individual under a provincial pension plan.

• *Marginal note: Employment succeeded by self-employment*

(2) For the purpose of subsection (1), if a person, in a year after 2003, is an employee of a corporation controlled by the person, ceases to be employed by that corporation and becomes self-employed, the person may

- (a) take into account the amount of contributory salary and wages paid by the corporation to the employee in the year as contributory self-employed earnings of the person in the year; and

- (b) take into account the amounts deducted, remitted or contributed by the corporation in relation to the employee's contributions and the employer's contributions in respect of the person for the year as contributions by the person in respect of self-employment earnings in that year.

- R.S., 1985, c. C-8, s. 10;
- R.S., 1985, c. 30 (2nd Supp.), s. 3;
- 2004, c. 22, s. 16.

Canada Pension Plan Regulations

PENSIONABLE EMPLOYMENT

- 34. (1) Where any individual is placed by a placement or employment agency in employment with or for performance of services for a client of the agency and the terms or conditions on which the employment or services are performed and the remuneration thereof is paid constitute a contract of service or are analogous to a contract of service, the employment or performance of services is included in pensionable employment and the agency or the client, whichever pays the remuneration to the individual, shall, for the purposes of maintaining records and filing returns and paying, deducting and remitting contributions payable by and in respect of the individual under the Act and these Regulations, be deemed to be the employer of the individual.
- (2) For the purposes of subsection (1), "placement or employment agency" includes any person or organization that is engaged in the business of placing individuals in employment or for performance of services or of securing employment for individuals for a fee, reward or other remuneration.

Jean Sheridan O/A Accent Nurses Registry v. The Minister of National Revenue (March 12, 1985, Toronto)

Judge: Heald J.

Summary

Nurses that were considered independent contractors were placed by the Jean Sheridan Accent Nurses Registry into an employment with hospital under the control of the hospital. The applicant received all the money and remained 10% of their pay. The question was if nurses were engaged in insurable employment, and accordingly Sheridan must pay the prescribed premiums in those situations where, as here, the nurses received their pay from the applicant and not from the hospital.

Sheridan claimed that she was merely a conduit of the remuneration paid by the hospital. The judge didn't agree with this, as applicant received all of the pay earned by the nurses and thereafter she remitted to the individual nurses the proper amount earned by each after deducting from that amount, her fee of 10%.

Regulation 12(g) of the Unemployment Insurance Regulations, C.R.C. c – 1576 :

12. Employment in any of the following employments, unless it is excepted employment under subsection 3(2) of the Act or excepted from insurable employment by any other provisions of these Regulations, is included in insurable employment:

(g) employment of a person who is placed in that employment by a placement or employment agency to perform services for and under the direction and control of a client of the agency where that person is remunerated by the agency for the performance of such services.

In the case was cited another court case - Martin Service Station Ltd. V. Minister of National Revenue (1977) 2 S.C.R. 996 - Mr. Justice Beetz:

“In order to avoid paying contributions under the Acts, some persons might however elect to give to their contractual relationship a form other than that of a contract of service; the impugned enactments, in so far as they enable the unemployment Insurance Commission to reach such persons, pertain to the category of enforcement provisions and are clearly *intra vires*. But, even leaving out of account any possible intention to evade the Acts, if conditions become such that those who have a contract of employment to perform a given type of work find themselves unemployed, it is most likely that those who perform the same type of work, although they be self-employed, will also find themselves out of work because of the same conditions. It is mainly to protect the latter against this risk of unavailability of work and whether they be self-employed or employed under a contract of service, taxi drivers and bus drivers for instance are exposed to the risk of being deprived of work. This risk is, in my opinion, an insurable one...”



MESSAGE TO ALL PLACEMENT AGENCIES OF RECORD

**Re: Status of Certain Workers for Income Tax,
Unemployment Insurance and Canada Pension
Plan Purposes**

This message announces effective August 1, 1985 a policy change affecting certain specialist workers placed in employment by placement agencies.

Background

Since January 1, 1983 by virtue of the decision of the Pension Appeals Board in what has become known as the 'TEG' case, certain specialist workers have been considered as self-employed independent contractors and ineligible to contribute to, or receive a benefit under the Unemployment Insurance legislation. The validity of the pertinent Paragraph 12(g) of the Unemployment Insurance Regulations made under the authority contained in Paragraph 4(1)(c) of the Unemployment Insurance Act, 1971, was called into question by the Pension Appeals Board.

As a result of the 'TEG' case:

- (a) with respect to the "professional specialists" referred to in the July, 1983 message S 83-7 to placement agencies, the specialists were no longer subject to the provisions of the Unemployment Insurance legislation or the Canada Pension Plan in an employee capacity, and
- (b) where the agency concerned had requested Ministerial Determinations for any of the years specified in the judgement within the time prescribed by April 30 of the following year, the specialists were no longer subject to the provisions of either of the legislations as specified in (a) above in respect of the years concerned.

However, in the 'Sheridan' case in the Federal Court of Appeal in March, 1985 jurisprudence clearly re-established the validity of Paragraph 12(g) of the Unemployment Insurance Regulations in cases where the terms and conditions under which services were provided to the clients of the agencies by workers employed by the agencies were similar to the terms and conditions enjoyed by employees employed under a Contract of Service.

Specialist Workers — New Policy

As a result of the 'Sheridan' judgement the Department now announces that effective August 1, 1985, specialist workers employed and remunerated by placement agencies and who are under the control and direction of a client will be regarded as being insurable by virtue of Paragraph 12(g) of the Unemployment Insurance Regulations and subject to the appropriate withholding, with the agencies being responsible for the employer's shares together with the remitting and reporting requirements.

The same policy change applies to Canada Pension Plan coverage pursuant to Section 6 of the Canada Pension Plan and Section 34 of the Canada Pension Plan Regulations and consequently appropriate withholding, remitting and reporting will be necessary.

In cases where the specialist for income tax purposes is regarded as an employee, the usual rules governing the withholding, remitting and reporting of tax apply.

MESSAGE À TOUTES LES AGENCES DE PLACEMENT RÉPERTORIÉES

**Objet: Situation de certains travailleurs aux fins de l'impôt sur
le revenu, de l'assurance-chômage et du régime de
pensions du Canada**

À compter du 1^{er} août 1985, la politique sera modifiée à l'égard de certains travailleurs spécialisés qui se trouvent un emploi par l'entremise des agences de placement.

Historique

Par suite de la décision "TEG" de la Commission d'appel des pensions, certains travailleurs spécialisés sont considérés depuis le 1^{er} janvier 1983 comme des entrepreneurs indépendants et ne sont pas admissibles aux contributions ou aux prestations en matière d'assurance-chômage. La Commission d'appel des pensions a mis en question la validité de l'alinéa pertinent 12g) du Règlement sur l'assurance-chômage, fondé sur l'alinéa 4(1)c) de la Loi de 1971 sur l'assurance-chômage.

Par suite de la décision "TEG":

- a) les "spécialistes professionnels" dont il a été fait mention dans le message S 83-7 de juillet 1983 aux agences de placement ne sont plus assujettis à titre d'employés aux dispositions de la Loi sur l'assurance-chômage ou du Régime de pensions du Canada, et
- b) lorsque l'agence concernée demande des déterminations ministérielles pour l'une ou l'autre des années précisées dans le jugement dans le délai prescrit, soit avant le 30 avril de l'année suivante, les spécialistes ne sont plus assujettis aux dispositions d'aucun des deux textes de loi mentionnés en a) ci-dessus en ce qui concerne les années visées.

Cependant, le jugement "Sheridan" de la Cour d'appel fédérale (mars 1985) a clairement confirmé la validité de l'alinéa 12g) du Règlement sur l'assurance-chômage dans les cas où les conditions selon lesquelles les services sont dispensés aux clients des agences par des travailleurs employés par ces agences sont les mêmes que celles dont bénéficient les employés engagés dans le cadre d'un contrat de louage de services.



Travailleurs spécialisés — Nouvelle politique

Par suite du jugement "Sheridan", le ministère annonce maintenant qu'à compter du 1^{er} août 1985, les travailleurs spécialisés employés et rémunérés par des agences de placement et qui sont placés sous le contrôle et la direction d'un client seront considérés comme étant assurables en vertu de l'alinéa 12g) du Règlement sur l'assurance-chômage et assujettis aux retenues salariales appropriées, les agences devant assumer les parts de l'employeur et satisfaire aux exigences en matière de remises et de déclarations.

La même modification à la politique s'applique au Régime de pensions du Canada en vertu de l'article 6 du Régime de pensions du Canada et de l'article 34 du Règlement sur le Régime de pensions du Canada, rendant par conséquent obligatoires les retenues salariales, les remises et les déclarations appropriées.

Dans le cas où le spécialiste est considéré comme un employé aux fins de l'impôt sur le revenu, les règles habituelles régissant les retenues salariales, les remises et les déclarations d'impôt s'appliquent.

Employees Under a Regular Contract of Service

Certain agencies may employ workers under a Contract of Service. These workers being subject to the usual criteria present in normal cases of employment, were, and are not affected by the "TEG" decision. These employees will continue to be classed as being in pensionable/insurable employment (subject to the usual excepting provisions), by virtue of paragraph 3(1)(a) of the Unemployment Insurance Act and paragraph 6(1)(a) of the Canada Pension Plan respectively.

Specialists in Excepted Employment

Where no Contract of Service exists between a specialist and an agency placing the individual, with no remuneration being paid by the agency to the specialist, and no control or direction is exercised by the client over the activities of the specialist in the attainment of the desired objective, the specialist will continue to be in excepted employment and no withholding in respect of Canada Pension Plan, Unemployment Insurance or Income Tax is exigible.

Assessments or Amounts Refunded — Transitional Rules

As a consequence of the new policy derived from the "Sheridan" judgement the following rules will be given effect to until such time as all unresolved issues as at August 1, 1985 are finally disposed of.

No attempts will be made to recover amounts refunded to those agencies in respect of periods of non-insurable/pensionable service by workers classed hitherto as specialists. In cases where a Ministerial Determination or Court action is still unresolved and is in respect of a year prior to 1985 and relates to a status question, no assessment action will be taken in relation to the agency in respect of the worker concerned in cases which would otherwise have resulted in the establishment of an amount assessable.

Where however an assessment has already been raised prior to August 1, 1985 and upon appeal the assessment is confirmed by either the Appeals Branch or a Court judgement, the confirmed assessment will be subject to the usual rules related to its collection.

Withholding Tables — CPP/UI 1985

The coverage in this message amends the text related to this matter contained in the All Canada 1985 CPP/UI withholding tables at pages 20 and 65 and page 17 of the Quebec table.

Further Information

Any questions arising from this change in policy should be directed to the Source Deductions Section of the District Taxation Office concerned.

July 1985

Employés engagés dans le cadre d'un contrat habituel de louage de services

Certaines agences peuvent engager des travailleurs dans le cadre d'un contrat de louage de services. Ces travailleurs étant assujettis aux critères d'emploi habituels, ne sont pas plus qu'auparavant touchés par la décision "TEG". Ces employés continueront à être classés comme occupant un emploi assurable et ouvrant droit à une pension (sous réserve des dispositions usuelles justifiant une dispense), en vertu de l'alinéa 3(1)a) de la Loi sur l'assurance-chômage et de l'alinéa 6(1)a) du Régime de pensions du Canada respectivement.

Spécialistes occupant un emploi exclu

Un spécialiste qui n'a pas signé avec l'agence qui l'a placé un contrat de louage de services, qui n'est pas rémunéré par l'agence et qui, dans ses activités visant la réalisation de l'objectif souhaité n'est pas soumis au contrôle ou à la direction du client, continuera à occuper un emploi exclu et sera exempté des retenues salariales aux fins du Régime de pensions du Canada, de l'assurance-chômage ou de l'impôt sur le revenu.

Cotisations ou montants à rembourser — Règles provisoires

En conséquence de la nouvelle politique découlant du jugement "Sheridan", les règles suivantes seront en vigueur jusqu'à ce que toutes les questions en suspens du 1^{er} août 1985 soient finalement résolues.

Aucun effort ne sera fait pour recouvrer les montants remboursés aux agences en ce qui concerne les périodes de service non assurables et n'ouvrant pas droit à une pension fournie par des travailleurs classés jusqu'ici comme spécialistes. Dans les cas où il n'y a pas encore de détermination ministérielle ou de décision judiciaire concernant la situation d'un travailleur avant 1985, aucune cotisation ne sera exigée de l'agence relativement au travailleur concerné dans les cas qui auraient autrement entraîné l'établissement d'un montant de cotisation.

Lorsque, cependant, une cotisation a déjà fait l'objet d'un appel avant le 1^{er} août 1985 et qu'elle a été confirmée soit par la Direction générale des appels ou un jugement du tribunal, elle est alors sujette aux règles habituelles liées à sa perception.

Tables de retenues salariales — RPC-AC 1985

Le présent message modifie l'énoncé sur cette question figurant aux pages 20 et 65 des tables de cotisations au Régime de pensions du Canada et de primes d'assurance-chômage (1985) et à la page 17 de la table du Québec.

Renseignements supplémentaires

Toute question portant sur la modification de la politique doit être adressée à la Section des retenues à la source du bureau d'impôt de district concerné.

Juillet 1985

Central Registry of Graduate Nurses v. M.N.R., 2003 TCC 822

Judge: MacLatchy, D.J.

Summary

This case is basically identical to the Jean Sheridan case and judge found that CRGN was a placement agency.

For this court case judge applied new regulations which are, for all practical purposes, identical to the Unemployment Insurance Act Regulations 12(g).

Paragraph 6(g) of the EI Regulations is as follows:

6. Employment in any of the following employments, unless it is excluded from insurable from the insurable employment by any of these Regulations, is included in insurable employment:

(g) employment of a person who is placed in that employment by a placement or employment agency to perform services for and under the direction and control of a client of the agency, where that person is remunerated by the agency for the performance of those services.

The Minister argued that there are four elements to the provision: there must be employment of a person (*meaning for this section is set up by the Judge Weisman in the court decision Isomeric Inc. (c.o.b. System Search Group) v. Canada (M.N.R., [200] T.C.J. No. 843. Word "employment" should not to be given a narrow interpretation of contract od service but is to be construed in a broader sense of activity or occupation.*); that person must have been placed in that employment by a placement or employment agency; that person performed services under the director and control of the client of the agency and that person was remunerated by the Agency for the performance of those services.