

Quebec Labour Law Blog

Liability for the acts of volunteers?

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It is well-known that an employer can be held liable for the conduct of his or her employee under certain circumstances, but can an employer be held responsible for the actions of a volunteer?

The existence of an employment contract or even remuneration is unnecessary for an employer to be held liable for the conduct of his or her volunteers. It is sufficient that one person (the volunteer) is under the orders of another (the employer), whether it be on a permanent, occasional or temporary basis. To determine whether an individual is under the orders of another is necessarily a question of fact. Moreover, for these same reasons, an employer has the obligation of ensuring the safety of his or her volunteers.

In *Bouchard v. Lavigne*, [2007 QCCS 5121](#), for example, the plaintiff was injured when helping out a neighbour cut down tree branches. The plaintiff tried to use employment-type language, arguing that a relationship of subordination existed between himself and the neighbour, the latter becoming his temporary principal. As such, the neighbour had an obligation to ensure his safety.

In this case, the Superior Court found that the evidence clearly showed that the neighbour was not giving orders to the plaintiff as to how he should be doing his work. While the neighbour could point to which tree needed trimming, the final choice was a common one. Moreover, both parties were experienced in tree-cutting and as such, there was no imbalance in their relationship. For all these reasons, there was no relationship of subordination and hence, no liability for the defendant.

The Court had this to say about the obligations of a person who takes on the services of a volunteer:

L'on considère donc que, même s'il s'agit d'un travail bénévole, la personne qui requiert un service doit s'assurer que la partie de qui ce service est requis est bien informée du travail à exécuter lequel ne doit pas être au-delà de ses aptitudes et ce, en veillant constamment à ce qu'il en soit ainsi lors de l'exécution du service requis.

And so, an employer has obligations to his or her volunteers, but also to those who may be affected by the work of these same volunteers when they are under his or her orders.

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