

Green Party of New Brunswick Policy Proposal: Deceptive Hiring Practices

Policy Proposal from the Fredericton South RDA

Context

Relying on a job advertisement for a high-paying salary position, and later relying on a company representative's assurance that pay would not be commission only, an economically vulnerable woman passed up other work opportunities, used her remaining time on Employment Insurance, spent several weeks and about \$1,000 for license qualification and related expenses, all in preparation for this position. Only then was she presented with an Agent Contract under which she would receive no pay other than sales commissions. Had she known at first that the position paid commission only, she would not have been interested, as she needed guaranteed income to pay her mortgage and avoid losing her home.

Nonetheless the woman signed the contract under duress, because she had invested so much in preparing for the job. Yet, the company then attempted another "bait and switch" regarding the initial training phase of the job (from promised training wages to commission only), which led ultimately to the woman's constructive dismissal. The Employment Standards Branch rejected her complaint for lack of jurisdiction.

Issue

Job seekers have little statutory protection in New Brunswick, particularly against deceptive hiring practices, such as false job advertising, or "bait and switch" from fixed salary/wages to pay by commission only. Kijiji, the popular online advertising service, apparently has recognized this problem, for its Jobs Code of Conduct includes a rule (constantly breached by the company mentioned above) which prohibits advertising of "jobs that pay only commissions, unless the ad makes it clear that the sole source of compensation would be commission, and clearly describes the product or service that would be sold."

While the Kijiji rule can only be enforced by Kijiji, there is no reason why a similar rule would be inappropriate for legal codification. Alternatively, or additionally, New Brunswick could follow the example of British Columbia, whose *Employment Standards Act* (section 8) states:
An employer must not induce, influence or persuade a person to become an employee, or to work or to be available for work, by misrepresenting any of the following:

- (a) the availability of a position;
- (b) the type of work;
- (c) the wages;
- (d) the conditions of employment.

Such legislation appears to be rare in Canada, but New Brunswick could help set an important trend. Combining the above two codes, and extending them to protect all job seekers, not just prospective "employees," our legislation could be amended to include provisions similar to these:

No one shall induce, influence or persuade a person to become an employee or independent contractor, to work or to be available for work, by misrepresenting, expressly or by omission, any of the following:

- (a) the availability of a position;
- (b) the type or conditions of work;
- (c) the wages or compensation, including whether by commission only.

No one shall advertise a job or contract which pays only commissions, unless the advertisement makes it clear that the sole source of compensation will be commission, and clearly describes the product or service that will be sold.

Action Plan

A Green government would adopt legislative protection for job seekers against deceptive hiring practices.