Québec labour standards: The definition of personnel placement agency upheld by the Court of Appeal

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On May 12, 2025, the Québec Court of Appeal issued a key decision regarding the regulation of personnel placement agencies (called in other provinces “temporary help agencies,” “employment agencies,” and similar terms). Beyond the legal debate, this judgment is directly relevant to many employers in terms of labour standards: it confirms that a company can be considered a “personnel placement agency” if it provides, even on a secondary or occasional manner, personnel to other organizations.

Why is this important? Because such a characterization entails specific legal obligations and exposes both the company providing personnel leasing services and the client company to fines in the event of non-compliance.

This Insight summarizes key lessons from the ruling and highlights what employers need to know to avoid the sometimes significant costs associated with non-compliance issues. For the purposes of this analysis, we will focus in particular on the Court of Appeal’s findings regarding the scope of the definition in section 1 of the *Regulation respecting personnel placement agencies and recruitment agencies for temporary foreign workers* (the Regulation).

Background

On June 12, 2018, the National Assembly of Québec amended the *Act respecting labour standards* (the Act) to better regulate personnel placement activities. These changes opened the door to the adoption of the Regulation, which came into force on Jan. 1, 2020.

The Regulation introduces a system of compulsory permits, whereby the Commission des normes, de l’équité, de la santé et de la sécurité du travail (CNESST) issues these permits to companies that offer personnel leasing services. Section 1 of the Regulation defines a "personnel placement agency" as "a person, partnership or other entity that has at least one activity consisting in offering personnel leasing services by providing employees to a client enterprise to meet its labour needs."

However, this definition quickly sparked debate: does it apply only to specialized agencies, or does it also apply to companies for which personnel leasing is only a secondary activity?

The issue was first decided by the Superior Court in *Association provinciale des agences de sécurité c. Procureur général du Québec*, 2022 QCCS 3952, rendered on Oct. 26, 2022. The Court concluded that the definition of "personnel placement agency" in section 1 of the Regulation exceeded the powers of the government (*ultra vires*) and declared it null and void. According to the Superior Court, the government could not broaden the scope of the law beyond its actual purpose, which was limited to agencies specializing in personnel placement; read our article from that time to learn more about the decision.

However, that conclusion was not upheld on appeal.

The decision of the Court of Appeal

On May 12, 2025, the Court of Appeal overturned the Superior Court's decision and confirmed the validity of the definition in section 1 of the Regulation in the *Commission des normes, de l'équité, de la santé et de la sécurité du travail c. Association des entrepreneurs spécialisés en procédé industriel du Québec*, 2025 QCCA 587.

The Court considers that the definition of “personnel placement agency” is not sufficiently vague to compromise its validity. Although this definition does not exhaustively identify all types of employers or activities that may be covered by it, the Court emphasizes that it is sufficiently precise to allow for interpretative debate. It will then be up to employers and the CNESST to ensure its application on a case-by-case basis, and to debate it.

The Court of Appeal confirms that this definition covers any person who, in one form or another, engages in personnel leasing activities to meet the labour needs of their clientele, whether this is a primary, secondary, or parallel activity for them.

A company is therefore considered to be a personnel placement agency subject to the requirement to hold a license if at least one of its activities consists of offering personnel leasing services. In this regard, the Court of Appeal states that this activity must be carried out with “some regularity.” Without elaborating further on this point, it does mention, however, that “once every two or three years” would not be sufficient to meet this standard.

The personnel leasing contract

The definition of “personnel placement agency” is based on the concept of “personnel leasing,” that is, the activity whereby a company provides its clients, in return for payment, with the services of employees whom it hires, remunerates, and generally supervises, but whose work, performed at the client company, is intended to meet a labour need for a specified period under the direct authority of the latter, as if they were its own employees.

The Court of Appeal illustrates this reality through a number of concrete examples: replacing an absent employee (due to illness, maternity or parental leave, vacation, sabbatical), responding to a temporary increase in workload (for example, a manufacturer decides to increase its production rate for a certain period, or in order to fulfill a larger order than usual), or providing support in the context of a labour shortage. In each of these cases, the core of the contract is based on providing the client company with **the working capacity of the employees** provided by the agency **to meet a labour need**.

These elements therefore distinguish a personnel leasing contract from a contract of enterprise or for services, which is intended to carry out work or provide a service to the client, rather than to meet their labour needs.

Concrete examples

In order to illustrate the distinction between a personnel leasing contract and a contract of enterprise or for services, the Court of Appeal relies on real-life situations frequently encountered:

- Housekeeping: when a company entrusts the maintenance of its premises to a specialized firm that performs the service with its own staff and supervises it, it is a service contract, because the object is the expected result. On the other hand, if this company asks a third party to provide an employee to temporarily replace a member of its internal team, this is referred to as personnel leasing, as the purpose of the contract is the work capacity of the employee on loan.
- Consulting engineering: when a consulting engineering firm sends an engineer to a client's site to provide advice or supervision, this is not generally considered to be personnel leasing, as the engineer's services remain under the direction and control of the consulting engineering firm, even if close collaboration with the client and its staff is required.

These examples confirm that it is the purpose of the contract, and the degree of control exercised over the work performed that determine whether the activity falls under a service contract or a personnel leasing contract subject to the Regulation.

Key takeaways for employers

In light of this decision, a company may be classified as a personnel placement agency if it offers, even on a secondary or parallel basis, or even occasionally, personnel leasing services to meet a labour need.

This classification means that a permit from the CNESST is required to carry out such activities. For their part, client companies may only use duly authorized agencies (that is, those that hold a permit).

In the event of non-compliance, both the personnel placement agency and the client company are subject to fines ranging from $600 to $6,000, which are doubled in the event of a repeat offence.

However, it should be kept in mind that a permit is only required when a personnel leasing contract is involved, and not a contract of enterprise or for services, the purpose of which is to carry out a specific task or provide a specific result rather than to supply labour.

Contact us

If you have any questions about this Insight or would like to discuss any other legal concerns relating to labour and employment, please do not hesitate to contact one of the lawyers in BLG's Labour and Employment Group.

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