

**FIGHTING FOR THE RIGHTS OF TEMPORARY AGENCY WORKERS
IT'S HIGH TIME FOR GOVERNMENT ACTION!
HELP US MAKE IMPORTANT HEADWAY IN THIS VITAL DOSSIER...**

BACKGROUND

The temporary recruitment agency industry is flourishing. In Québec alone, the revenue generated by placement agencies was in excess of a billion dollars in 2008. What's more, this sector is rapidly expanding without any specific regulations or legal frameworks governing it. Problems plaguing this industry are numerous: poor working conditions, low wages, abusive contractual clauses, higher rates of workplace accidents and the habitual violation of labour laws are all too common.

As one can imagine, companies benefit from a number of advantages when employing the services of temporary placement agencies. First, it enables businesses to cut costs by eliminating hiring, training and evaluation procedures. In addition, employers are also presented with the option of eliminating the need to contribute to social benefits such as paid sick days, collective insurance and pension plans. Employers can also use temporary agency workers to circumvent labour laws or undermine unions. More importantly however, businesses make use of agencies to forgo their legal obligations, giving way to wide spread abuses such as unlawful termination of employment, discriminatory hiring practices and unsafe working conditions. Furthermore, there are no guidelines limiting the "temporary" nature of the positions offered by these agencies. Hence, it comes as no surprise that a multitude of workers have occupied the same position for many years. All in all, temporary placement agencies are contributing to the precariousness in the work force, as well as constituting a real threat to worker rights. This is why temporary placement agencies enjoy the protection of powerful lobby groups that act to hinder efforts to regulate the industry.

Au bas de l'échelle and the Immigrant Work Centre have decided to unite their efforts and launch a campaign aimed at promoting the rights of temporary agency workers. The number of concerned individuals is growing, along with demands for increased government oversight, which is desperately needed to regulate agency practices. As a result, we ask for immediate government intervention in the following matters: Firstly, the regulation of the industry should be addressed through the use of mandatory and renewable operating permits, and secondly, the legislative measures are required to implement co-responsibility between agencies and their employer-clients. These should be implemented as a means of promoting respect for worker rights.

1st URGENT MEASURE: MANDATORY OPERATING PERMITS

There are currently over 1200 placement agencies operating in Québec. These agencies are present in virtually all sectors of the labour force, including office work, the construction industry, the health sector and the manufacturing industry. Certain agencies require their workers to sign contracts, which contain abusive clauses in most cases, while others only make use of verbal agreements. With so many agencies in operation, and no legal framework to regulate them, agency practices vary considerably.

The most worrisome practices are adopted by fraudulent agencies that specialize in the recruitment of vulnerable individuals, such as immigrants, who often are unaware of their rights and are in dire need of income. Some of these workers are paid a rate below the minimum wage, in cash and at the end of their workday. Others have sums fraudulently deducted from their pay cheques or are promised their pay after two weeks and never receive it. When things get too heated, these agencies close up shop and reopen under a new name, or seek refuge under bankruptcy laws. What makes this issue even more problematic is the lack of available data. To our knowledge, the only source of information relating to the placement industry remains Statistics Canada. However, not all agencies are included in these statistics because many of them change names and addresses regularly or engage in other shady practices.

THE USE OF A PERMIT

Operating permits are a way of ensuring a minimum degree of control and some degree of accountability towards the government, agency employees and society as a whole. By verifying financial records, we can put an end to fraudulent agency practices, practices that have repercussions beyond the workers they prey upon. Furthermore, by making these permits renewable and forcing agencies to keep their company records up to date, we can ensure the validity of the contact information for both the agencies in question and the individuals who run them. If an agency is facing an investigation for an infraction or is accused of unjust working practices, the appropriate governing body can reserve the right to suspend or revoke its permit. Moreover, requiring a guarantee in the form of a deposit can offer additional protection and can possibly eliminate insolvent agencies. There are also a number of measures that can be adopted by various governmental agencies. For example, Emploi Québec, who regularly posts agency job offers, can filter offers to include only agencies that are in good standing, while enabling all those looking for work to be able to check that an agency's permit is in order. Additionally, through the use of questionnaires the government can also obtain a good amount of basic data,

shedding light on this otherwise largely unknown industry. For example, these questions can be designed to highlight the sectors in which an agency operates or the type of recruitment-temporary, permanent or contractual- it's involved in. The government can also force agencies to be more transparent. This can be accomplished, for instance, by obliging agencies to submit an annual report on their activities, as well as a complete list of their clients and employees.

OUR DEMANDS FOR OPERATING PERMITS ARE AS FOLLOWS:

WE WOULD LIKE TO REITERATE THE IMPORTANCE FOR TEMPORARY PLACEMENT AGENCIES TO HOLD VALID AND RENEWABLE OPERATING PERMITS. THESE PERMITS SHOULD ONLY BE ISSUED TO AGENCIES THAT CAN SUCCESSFULLY DEMONSTRATE THEIR SOLVENCY, AND THE ISSUING BODY SHOULD RESERVE THE RIGHT TO REVOKE PERMITS IN CASES WHERE ABUSE IS PRESENT. MOREOVER A SYSTEM ACTING TO ENSURE THAT AGENCY WORKERS GET PAID THEIR WAGES, BY MEANS OF A MONETARY DEPOSIT FOR EXAMPLE. AGENCIES SHOULD ALSO BE RESPONSIBLE FOR NOTIFYING ALL WORKERS OF ANY CHANGE IN ADDRESS OR MANAGEMENT.

Let us also not forget the numerous companies that make use of temporary placement agencies to meet their labour needs. These companies have little concern for the working conditions of the people they indirectly employ. By claiming that it is not their mandate and effectively washing their hands of any responsibility, these companies contribute and even profit from the exploitation of agency workers.

THIS IS WHY WE ASK THAT:

ALL COMPANIES THAT USE THE SERVICES OF TEMPORARY PLACEMENT AGENCIES WITHOUT VALID OPERATING PERMITS SHOULD BE SUBJECT TO FINES.

2ND URGENT MEASURE: ESTABLISHING THE PRINCIPLE OF CO-RESPONSIBILITY BETWEEN AGENCIES AND CLIENT COMPANIES.

The situation agency workers find themselves in is particular to say the least. On the one hand, there is the agency that hires personnel and pays them, and on the other, it is the client company that is responsible of everyday operations and supervision. Thus, workers are paid by the agency but work for the company. Essentially, this translates into an uneven three-cornered working relationship. Being stuck between two companies (one that pays and one that supervises) places agency workers in a complex situation in regards to labour laws. In principle the same laws apply, but in reality, applying these laws

is much more difficult. The latter is due to the fact that current laws governing working conditions have not been designed to take into account this particular relationship. When it comes to filing complaints for example, workers often have a hard time distinguishing who their employer really is. This renders the process complex and often times exhausting, discouraging many from reporting abuses.

For agency workers, as opposed to other types of workers, protection from unlawful termination of employment is not guaranteed. It depends on a number of factors, such as who put an end to the employment or who the courts deem the employer to be—under the current laws there could only be one. In certain cases it is the agencies that are found to be the employers, leaving workers with limited options if it is the client company that is violating his or her rights. In other cases, even if the agencies themselves are guilty, it is regularly hard to prove illegal practices because of technicalities surrounding the current legal framework and temporary placement agencies.

Among the most common problems plaguing agency workers is the difficulty of getting their worked hours recognized. The schedule is often completed by client companies that fax the information to the agencies. This information is often incomplete, arrives late or gets lost. What's more, workers that negotiate conditions (overtime for example) with client companies may find themselves in a predicament when agencies refuse to pay seeing that the latter was done without its consent. In these instances, the options available to individuals fighting to get remuneration for their work are fairly limited.

Often non-unionized workers are not aware of their rights. Even when such awareness exists, there is often fear of repercussions. The position of agency workers is even more precarious seeing that they do not enjoy a permanent position within a company and need to stay on an agency's good side to obtain future employment. When a client company fails to respect the rights of a worker, it is not unusual for agencies to side with the company in order to ensure future contracts, which can be very lucrative. This flagrant lack of responsibility is in effect one of the biggest arguments used by agencies to promote their services: the ability to hire and fire workers without the need to respect any regulation gives companies a substantial degree of flexibility. We propose establishing joint responsibility between agencies and client companies. This would act to protect workers against fraudulent agencies and unfair working conditions by forcing client companies to respect working conditions and compensate workers for unpaid wages. As a result, client companies would be more cautious in choosing the type of agencies they deal with. Co-responsibility can be used to not only help ensure respect for workers of temporary placement agencies, but also help diminish the incentives that encourage temporary work over permanent positions.

THIS IS WHY WE ASK THAT:

THE COMPONENT OF CO-RESPONSIBILITY BETWEEN AGENCIES AND CLIENT COMPANIES BE INTEGRATED IN THE CURRENT LEGAL FRAMEWORK IN ORDER TO ENSURE ACCEPTABLE WORKING CONDITIONS AND RESPECT FOR AGENCY WORKERS. IN TERMS OF FINANCIAL OBLIGATIONS (WAGES, PAID HOLIDAYS ETC.), TEMPORARY PLACEMENT AGENCIES AND THEIR CLIENTS SHOULD BE ENTIRELY RESPONSIBLE TOWARDS THE INDIVIDUALS THEY HIRE. WHEN IT COMES TO ALL OTHER RIGHTS (UNLAWFUL TERMINATION, ILICITE PRACTICES, HARASSMENT ETC.), BOTH SHOULD BE HELD ACCOUNTABLE FOR THE INFRACTIONS AND THE COMPENSATION JUDGED NECESSARY.

If you agree with the above mentioned and would like to support us in our campaign, we kindly urge you to get involved in the following ways:

- 1- Sign and send the enclosed letter supporting our cause to the Ministry, while also not forgetting to send us a copy at: chenry@aubasdelechelle.ca
- 2- Spread this document to your members, or all other persons or organizations susceptible to this cause.
- 3- Contact us for additional information and/or invite us for an information session regarding temporary placement agencies.
- 4- Stay informed of our actions and events, while following the evolution of the campaign at <http://iwc-cti.ca/campagnescampaigns/current-campaigns/> (for information in English) or www.aubasdelechelle.ca/campagne-agences (for information in French)



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