

Aspects of Contract and Negligence in Business

Introduction

Business in the modern era is mostly characterised by an ever-growing network of legal requirements and boundaries, which serve the purpose of enhancing transactional interactions. More specifically, these legal requirements establish guidelines for expectations on conduct and quality control for individuals as well as organisations within business settings. Essentially, such guidelines control actions based on a contractual catalogue of legal allowances and restrictions, with the aim of ensuring that business transactions are conducted in a manner that is fair to all parties involved (Budiarta, 2018). Consequently, this emphasises the significant role played by legal stipulations in contracts within the business sector. Breaches of contract stipulations would lead to hindrances in the social organisational structure of businesses, which would in turn adversely affect business transactions.

Laws on negligence act as the cornerstone of business law, through their provision of protection against accidental injury and damage. These laws allow for the legal provision of tort damage compensations, particularly in cases where business contracts fail to outline terms for such compensations. Additionally, laws on negligence may also be creatively applied for the allocation of financial loss compensation in cases of lack of further remedy during business transactions. Since the overall importance of contracts and legal stipulations for negligence has already been established, this paper seeks to provide a deeper outlook on the structure and application of the aspects of contract and negligence within the context of business.

The Aspect of Contract

Generally, the formation of a valid contract is directly dependent on the identification of legal elements that are essential for validity. According to Poole (2012), the establishment of

contracts that are valid should entail a thorough consideration of a number of legal elements which play a role in creating legal bonds between the parties involved on the basis of contractual stipulations.

In this case, the first legal element is established by the presence of an offer. Essentially, an offer acts as an indication of willingness for involvement in business transactions on the basis of specified bargains. The presence of an offer is then followed by an acceptance of initial stipulations made for the sake of formation of a transactional relationship. Acceptance is an important legal element that allows for the commencement of business transactions between involved parties with reference to a number of specified terms and conditions. Upon the acceptance of legal terms, contractual validity is enhanced through the consideration of legality within the purpose of the contract (Knapp et al., 2019). In other words, this means that the purpose for which the contract was created should be compliant with existing laws and policies.

During the formation of a contract, obligatory mutuality is an important factor that should be considered for the purpose of facilitating mutual understanding between the parties involved. As such, obligatory mutuality revolves around the expectation that the involved parties are all in agreement to similar descriptions of existing contract terms at the same time. In addition to the mutuality of obligation, contract validity is also determined by the existence of consideration, whereby realistic and valuable terms are used in support of contract formation (Poole, 2012). Essentially, the significance of these legal elements is evidenced by contract legality and validity. Consequently, the absence of these elements negates the validity of contracts in business (Knapp et al., 2019).

Generally, in order to achieve a sufficient level of comprehension of business law, knowledge of the implications and specificity of the different types of contracts is necessary.

According to Alpa et al. (2022), the different types of contracts in existence include distance selling contracts, voidable and void contracts, implied and express contracts, and unilateral and bilateral contracts. While bilateral contracts are used to represent agreements between at least two groups or individuals, unilateral contracts represent actions solely undertaken by one individual or group. More specifically, the latter contract type only allows the involvement of one party in the creation of specific agreements or promises (Alpa et al., 2022).

Alternatively, whereas express contracts revolve around a clearly stated promise, implied contracts are centred around a focus on action or behavioural presentations that lead to the establishment of an agreement. Moreover, void contracts are formed in cases where either party cannot enforce contract terms. Generally, the establishment of void contracts is not legally recognised due to the performance of an action that is considered to be illegal by one of the involved parties. Consequently, the law does not support the establishment of void contracts. An instance of the formation of a void contract can be observed in the case of *Shuey v. US* [1875], where a revocation of the agreement between the two parties involved was supported by the non-binding nature of the initial offer. Similarly, in the case of *Dickson v. Dodds*, [1876], the offer made was not legally binding due to the absence of an acceptance of the offer by the other party.

Alternatively, the validity of voidable contracts is maintained by their allowance for term enforcement which involves the legal obligation of only one of the parties to the contract terms (Budiarta, 2018). However, contract cancellation in this case is a right of the party that is legally unbound from voidable contracts, thus showing the legality and validity of voidable contracts. Finally, distance selling contracts revolve around the protection of consumers of goods and services bought online. In addition to online products, the regulations involved in such contracts

can also be established in cases where consumers are involved in long-distance transactions with sellers. In the UK, the enforcement of regulations on distance selling transactions was introduced in the year 2000. While these regulations allow for consumer protection from fraud on the basis of inability to physically interact with sellers, they are not applicable for business-business interaction.

Essentially, it is evident that contractual law in business is a significant facilitator of favourable transactions. More specifically, the enhancement of transactions occurs based on the guidance provided by not only existing laws and policies but also agreements and terms set by the involved parties. As such, the purpose of contract establishment revolves around the mutual satisfaction of the parties involved.

The Aspect of Negligence

In business, the tort of negligence occurs in cases of strict liability, where the actions of one party in a contractual relationship result in harm to the other party. However, in other cases, the avoidance of fault-based liability by one party may be permitted by contractual terms (Cauffman et al., 2013). In tort law, strict liability involves the establishment of liability on an individual or party without the presence of a particular fault or finding. In this case, torturous intent or negligence is determined upon the identification of fault by one party. This identification is directly dependent on the provision of proof of the occurrence, as well as the involvement of the defendant in the tort (Cauffman et al., 2013). Consequently, the contractual liability of one party is directly associated with the responsibility to care for the welfare of the other party as the main legal duty in the tort of negligence.

Generally, the duty of care entails the existence of an obligation by one party to take care of the other in a way that results in an avoidance of harm or injury. Under the duty of care, while

tort liability implies that compensation should be provided to match the damages incurred, compensation in contract liability is limited by the boundaries defined by the terms of the contractual agreement (Caunt, 2020). As such, this implies that within a business setting, the duty of care is also limited to the terms outlined within the contract.

With reference to liability in business contracts, negligence is a tort liability that is caused by the failure of one party to adequately perform their duties (Caunt, 2020). Furthermore, while liability in negligence should occur without intention to cause harm, it arises from a lack of care by one party through failure to act on the responsibility to prevent the incurrence of damage by the other party. For the establishment of proof of negligence, four main factors involving obligation, abuse, damage, and predictability must be accounted for. More specifically, while the first factor implies that the offending party had an obligation centered on the prevention of harm to the other party, the second factor implies that the actions of the offending party led to an abuse of the existing obligation. Additionally, whereas this abuse must have led to the endurance of damage by the offended party, the damage must also have been a sensibly predictable result of the actions of the offending party. As such, this provides a significant pillar of protection in contractual business agreements.

Conclusion

Based on this discussion on the aspects of contract and negligence in business, the overall importance of legal guidelines in the establishment of business relations is clear. These guidelines define contractual expectations in terms of responsibility and conduct. Ultimately, they ensure business success by providing a strong foundation for the regulation of business compliances, dealings, and transactions.

References

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