

FEBRUARY 2024 MONTH IN REVIEW

British Columbia

LAWS & ANNOUNCEMENTS

Minimum Wage

Jan 1: BC raised the piece-rate minimum wage 6.9% for farm workers who hand harvest 15 different crops—peaches, apricots, Brussels sprouts, daffodils, mushrooms, apples, beans, blueberries, cherries, grapes, pears, peas, prune plums, raspberries and strawberries.

Employment Benefits

Jan 18: Alert to BC pension plan administrators: BCFSA [revised](#) the Canadian Socio-Economic Information Management System Rate (CANSIM rate) for interest on pension contributions.

New Laws

Jan 5: BC rolled out a new [French-language policy](#) designed to enable government ministries to provide better services to French-speaking residents.

Health & Safety

Feb 9: Comments close on [proposed changes](#) spelling out what current OHS regulations (Part 3) only imply, namely, that employers must, in consultation with the JHSC, identify and assess workplace hazards and take steps to either eliminate or control the hazards they identify, while maintaining records documenting each step of the process.

Action Point: Find out [how to create a vibrant safety culture](#) at your organization

Privacy

Jan 29: The new *Intimate Images Protection Act* allowing individuals to file money damages lawsuits against those who publish their intimate images online without consent officially took effect. BC also launched a new Intimate Images Protection Service to support victims, explain their legal rights and help them get their images off the internet as soon as possible.

Action Point: Protect your organization from risks of [revenge porn and cyberbullying liability](#)

Workers Comp

Jan 1: New workers comp return to work rules took effect in BC, including the requirement of employers and injured workers to cooperate in the RTW process and the duty of employers to maintain injured workers' employment. WorkSafeBC issued temporary [Practice Directive #C5-6](#) and [Practice Directive #C5-7](#) on administrative monetary penalties for violations to implement the new rules.

Workers Comp

Feb 29: That's the deadline for the first group of BC employers to submit their actual 2023 payroll numbers and 2024 estimates to WorkSafeBC. For some employers, the reporting deadline is either March 15 or March 31, depending on the last 2 digits of their employer account number.

Action Point: Look up the [2024 workers comp rates](#) in each part of Canada

CASES

Termination: High Court Rejects Employer's COVID Frustration of Contract Defense

A small, family-owned duty-free shop on the land border between the US and Canada laid off all of its employees after the border was closed to nonessential traffic during the COVID-19 pandemic. Upon being sued by a 78-year-old employee, the shop claimed the border shutdown frustrated the contract. The lower court disagreed and ordered the shop to pay the employee 10 months' notice for wrongful dismissal. The shop appealed and the case landed in the Court of Appeal. **Result:** No frustration. The party claiming frustration must prove that an unforeseen event would require them to do something "radically" different from what was contemplated by the contract, the BC high court reasoned. Suffering a financial loss

or hardship isn't enough. There was no evidence to suggest that the judge was wrong in concluding that the border shutdown didn't frustrate the contract in this case [[*Aldergrove Duty Free Shop Ltd. v. MacCallum*](#), 2024 BCCA 28 (CanLII), January 26, 2024].

Action Point: Find out more about [how COVID-19 affects reasonable termination notice](#)

Termination: Unsafe Operation + Dishonesty About Incident = Just Cause to Fire Lift Operator

An airline catering company fired a worker for operating a high-lift truck unsafely and then lying about the severe damage caused to an aircraft as a result. The BC arbitrator ruled that the company had just cause to terminate and tossed the union's grievance. The video evidence clearly showed that the company violated company protocols for safe operation of the machine. While he had a long record of service with the company, his failure to report or admit responsibility for the extensive damage he caused—it was basically just like a hit and run incident, the arbitrator reasoned—justified the decision to cut ties permanently [[*Gate Gourmet Canada Inc. v Unite Here, Local 40*](#), 2023 CanLII 119865 (BC LA), November 6, 2023].

Action Point: Find out [when lying is just cause for termination](#)

Health & Safety: WorkSafeBC Fines Government Over \$700,000 for Tree Falling Violations

When it comes to OHS compliance, government agencies are expected to practice what they preach. Exhibit A: WorkSafeBC just dished out what may be the biggest AMP for an OHS violation in 2023, \$710,448, to the provincial government after inspectors spotted numerous high-risk violations at a tree falling site in Wonowon where wildfire fuel reduction activities were taking place, including unsafe falling cuts, stumps with insufficient holding wood and failure to monitor the work and ensure it was performed by properly certified workers as required by its own OHS program [*Provincial Govt.*].