

AUGUST 2023 MONTH IN REVIEW

New Brunswick

LAWS & ANNOUNCEMENTS

Health & Safety

Jul 18: WorkSafeNB published its [2022 Annual Report](#). Highlights: The lost-time injury claim rate remained at 1.2 per 100 workers, while lost time claims decreased from 4,273 to 4,229. There were 10 fatalities, a 3-year low. After dropping slightly last year, psychological injury claims spiked from 135 to 179. There were 10 OHS prosecutions resulting in \$225,650 in fines as opposed to 8 prosecutions totaling \$153,000 in fines in 2021.

Mental Health

Jul 11: New Brunswick launched a free new hotline (reachable at 1-866-355-5550) that residents with mental health and addictions issues can call 24 hours a day to speak to clinical therapists, registered nurses, social workers and other “care coaches.”

Action Point: Create a [legally sound policy](#) for accommodating employees with mental disabilities

CASES

Termination: Time Theft Is Just Cause to Terminate, Says High Court

A lab fired a quality assurance tester for using the company vehicle to make repeated, unauthorized stops for personal errands during his shift. While finding the

just cause to discipline for time theft and abuse of trust, the arbitrator ruled that the employment relationship was salvageable and ordered the company to reinstate the tester without retroactive compensation. The appeals court reversed and the case went all the way to the New Brunswick Court of Appeal, which held that the appeals court was right and the arbitrator was wrong. Having found the tester guilty of time theft and breach of trust, the arbitrator should have gone along with case law upholding termination or at least provided a compelling justification for going against the judicial grain and ordering reinstatement [[*Unifor, Local 907 v. Irving Paper Ltd.*](#), 2023 NBCA 52 (CanLII), June 29, 2023].

Action Point: Take [6 steps](#) to prevent your employees from committing time theft

Health & Safety: Supervisor Convicted of Criminal Negligence for Young Worker's Death

A construction supervisor faces life in prison after being convicted of criminal negligence in the drowning death of a young worker at wastewater treatment plant in 2018. The supervisor decided to conduct a leak test when water leaked into a hole that was 8-feet deep and 3.5 feet wide while a worker was inside cleaning debris. The rubber plug inserted into the pipe while the test was performed came loose and 14,000 litres of water gushed into the hole, trapping the worker who wasn't even notified that the test was being performed. The New Brunswick court found the supervisor guilty of the criminal offence created by the federal law known as C-45 (Section 219 of the *Criminal Code*) of an act or omission causing a person's death with "wanton or reckless disregard for the lives or safety of other persons" [*His Majesty the King v Jason Andrew King*, 2023 NBKB 084, June 5, 2023].