

MARCH 2023 MONTH IN REVIEW

Nova Scotia

LAWS & ANNOUNCEMENTS

Minimum Wage

Feb 3: Nova Scotia accepted the Minimum Wage Review Committee's recommendation of moving up the increase in the minimum wage to \$15 per hour to Oct. 1, 2023, 6 months earlier than was originally scheduled.

Mental Stress

Feb 22: Nova Scotia launched a [new Access Wellness service](#) offering residents free one-on-one counseling for general mental health concerns, including anxiety, job loss, grief, substance abuse and relationship issues, as well as couples and family counseling.

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

Health & Safety

Feb 22: The time-loss injury rate in the third quarter of 2022 was 1.54 per 100 workers, slightly below the rate of 1.58 for all of 2021. The good news was that the time-loss rate for home care was down from 7.43 to 6.86 over the same period. Average number of days paid for time loss across all industries fell from 317 to 296 per 100 workers. Meanwhile the WCB's funded percentage for the quarter stood at 90.6%.

Workers Comp

Mar 31: Reminder: That's the final day for Nova Scotia employers to submit their 2023

workers comp payroll reports updating their payroll estimates for the previous year based on actual payroll data to the WCB. Missed and late filings can result in late fees, interest and penalties.

CASES

Workplace Harassment: High Court Uphold Sexual Assault Conviction of Workplace Groper

The Nova Scotia Court of Appeal upheld the conviction of a worker for sexually assaulting a female co-worker. During the 6 months that the two worked together at “The Best Little Oarhouse in Nova Scotia,” the worker intentionally brushed his hand across the victim’s buttocks “on multiple occasions.” He also intentionally elbowed her breast twice, an unwelcome gesture that he accompanied with an equally obnoxious remark such as “better call the labour board.” The high court decided that the conviction and sentence of 4 months of conditional imprisonment, followed by 6 months’ probation were valid and denied the worker’s appeal [[R. v. Carson](#), 2023 NSCA 6 (CanLII), January 30, 2023].

Action Point: Use the resources on the [Harassment Compliance Centre](#) to prevent harassment and bullying at your workplace

Accommodations: Failing to Accommodate Injured Worker Costs Employer \$48,000

A welder incapable of performing his old job due to workplace injuries asked to return to light duty work. Since it had no such work to offer, the employer terminated him. Question: Did the employer accommodate the welder’s disability to the point of undue hardship? The Nova Scotia arbitrator said no. It was a small company with limited work for people who can’t weld, the arbitrator acknowledged. But the company didn’t try enough to explore the alternatives. It should have at least assessed the welder’s capabilities and sought to piece together a permanent position suited to those abilities. **Result:** Termination was entitled to roughly 12 months’ termination notice, \$48,000, for wrongful dismissal [[Dauphinee v Lunenburg Foundry & Engineering Limited](#), 2023 NSLB 12 (CanLII), January 26, 2023].

Action Point: Help managers avoid [accommodations](#) mistakes that can create discrimination liability