

## JANUARY 2023 MONTH IN REVIEW

# Nova Scotia

### LAWS & ANNOUNCEMENTS

#### Accessibility

Dec 19: As part of its newly released 3-year [Accessibility Plan](#) for 2022-25, Nova Scotia will begin developing an accessibility program for employment in the public sector that will include beefed up workplace health and safety protections for the disabled.

**Action Point:** Find out more about [accessibility laws across Canada](#)

#### Discrimination

Jan 27: That's the deadline to participate in an [online survey](#) asking minorities, members of the LGBTQ community and other marginalized groups about whether they've experienced discrimination in accessing or receiving healthcare services in the province.

#### Health & Safety

Dec 12: The Nova Scotia WCB accepted 1,264 time-loss claims during the second quarter of 2022, as compared to 1,233 claims over the same period in 2021. Year-to-date total claims for the first half of the year are trending up more significantly: 2,912 vs. 2,614 in the first 6 months of 2021.

#### Workers Comp

Dec 12: The first half of 2022 was a financial setback for workers comp, with inflation and turbulent market conditions driving a decline in the Nova Scotia WCB's funded

position to about 90%. However, the agency expressed confidence that its “steady hand” and diversified long-term approach will keep things stable just as it did when the funded position declined to 27% in the 1990s before recovering to top 100% at the end of 2020.

## CASES

### **Attendance & Absenteeism: OK to Fire Worker for Abusing His Sick Leave**

Just 2 days into his return to work under a last chance agreement for alleged sexist remarks, a 65-year-old maintenance worker with a history of attendance problems told his supervisor he was planning to use up his remaining sick leave by going on leave for 4 months before retiring in October. Did I hear you right, asked the incredulous supervisor; you understand that I have to report this to management, he added. The worker’s response: yes and yes. At least that was the employer’s version of events that led to the worker’s termination. After hearing all of the witnesses, the Nova Scotia arbitrator found the story credible and dismissed the union’s grievance [*Unifor Local 4606 v Northwoodcare Incorporated*, 2022 CanLII 117403 (NS LA), December 7, 2022].

**Action Point:** Go to the HRI [Attendance & Absenteeism centre](#) for help cracking down on absenteeism at your workplace

### **Workplace Harassment: Court Refuses to Dismiss Constructive Dismissal Harassment Claim**

While workplace harassment constructive dismissal suits are common, it’s big news when they make it all the way to the highest court of a province. And that’s what happened in a case brought by a morning talk show co-host against the radio station that hired her in 2017. The station denied the allegations of allowing a toxic work environment and claimed that the case was barred by the 2-year statute of limitations. The Nova Scotia Court of Appeal disagreed, ruling that the constructive dismissal claim was more about breach of contract than harassment. And because contract claims are subject to a longer statute of limitations, the case was still timely [*HFX Broadcasting Inc. v. Cochrane*, 2022 NSCA 67 (CanLII), November 3, 2022].

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