

MAY 2023 MONTH IN REVIEW

Ontario

LAWS & ANNOUNCEMENTS

Aug 1: During the most recent fiscal year of April 1, 2023, to March 31, 2024, the MOL performed 10,515 *Employment Standards Act* claims investigations, as opposed to 11,718 in the previous year. There were also 1,025 ESA inspections (v. 788 in 2023) and 92 prosecutions (40).

Immigration

Aug 15: Ontario signed a Memorandum of Understanding with Nova Scotia to work together to make it easier for skilled trades professionals who've already gained recognition of their international credentials in one of the provinces to be recognized in the other. The collaboration will make it easier for international professionals to ply their trade in either province.

Action Point: Find out what corporations need to know to [navigate the immigration law maze](#)

New Laws

Oct 4: That's the deadline to apply, via [Transfer Payment Ontario](#), for the [Skills Development Fund](#) (SDF) Training Stream. There will be up to an additional \$260 million of funding available in 2024, the biggest funding round since the SDF launched in 2021.

New Laws

Aug 13: The Ontario Women's Economic Security Program announced that it will invest up to \$1.045 million over 3 years to support the [Connecture Canada](#) entrepreneurship program in Mississauga, which helps women from

Francophone, Black, immigrant and racialized communities gain the knowledge and experience they need to start a hair-braiding business.

Employment Benefits

Aug 1: FSRA published a new [report](#) outlining leading practices of defined benefit multi-employer pension plans. Ontario plan administrators can refer to the report for benchmarking purposes.

Privacy

Sep 4: Ontario completed [public consultations](#) on [proposed changes](#) to privacy laws governing validation, verification and authentication of requests to access a person's protected health information from Ontario Health as part of the Electronic Health Record.

Action Point: [Avoid privacy violations](#) when using digital technology to monitor employees

Workers Comp

Jul 1: Now that temporary employment agency licensing (TEA) is mandatory in Ontario, the WSIB is creating a new workers comp classification for the sector. The new classification, which will carry a relatively low premium rate due to its relatively low safety risks, will be added to Class L, Professional, Scientific and Technical, effective Jan. 1, 2025.

CASES

Telecommuting: Not Allowing Pregnant Employee to Work from Home Isn't Discrimination

An under-the-radar case with potentially significant ramifications began when a pregnant employee experiencing intense morning sickness requested permission to work from home over the course of her pregnancy, as recommended by her doctor. The company denied the request. Its reasoning: Since the employee was too ill to come to and stay at work, she should use her sick days instead. The union claimed that the company failed to accommodate the employee's illness, but the Ontario arbitrator tossed the grievance. Human rights and case law make it clear that pregnancy is not an illness; however, it may be a valid health-related reason for an absence. The company was supportive of the employee's medical issues and

prepared to give her the sick leave to which she was entitled. By contrast, the employee wasn't legally entitled to work from home. "There is no fundamental right to work from home," the arbitrator emphasized. Accordingly, the company's denial of her work from home request wasn't adverse treatment that an employee must prove for purposes of making out a case for discrimination [[*I.B.E.W. Local 636 v Hydro Ottawa Limited*](#), 2024 CanLII 78770 (ON LA), August 21, 2024].

Action Point: Find out how to implement a [legally sound telecommuting policy](#) at your workplace

Termination: OK to Terminate Bus Driver for Reckless Driving & Abusive Behaviour

An Ontario arbitrator upheld termination of a city bus driver for reckless driving and abusive conduct toward passengers. After putting him on "administrative" suspension to warn him to clean up his act, the city booked him an appointment for anger management. But the driver didn't attend. Three days after meeting with his supervisors, the driver engaged in a series of violations while operating the bus, all of which were captured by bus video, running 10 stop signs in a residential area and construction zone and driving 61 km/hr. in a construction zone with a posted limit of 30 km/hr. That same day, he used the f*** bomb while conversing with passengers, including screaming at one for not hitting "the f***ing button before I pass the stop" and responding to another's complaint by suggesting that she get a car if she was unhappy with how he was driving [[*Ottawa \(City\) v Amalgamated Transit Union, Local 279*](#), 2024 CanLII 79209 (ON LA), August 16, 2024].

Action Point: Find out how to create a [Psychological Safety Policy](#) for your own workplace

Health & Safety: Union Loses Grievance Over Employer's Selection of Personal Flotation Devices

Contending that the standard "recreational-style" life vests furnished to paramedics exposed to drowning hazards were too bulky and restrictive, the union insisted that the employer provide them with the sleeker "Mustang Life Vest MD." The workplace JHSC agreed and recommended the Mustang as the "best product." The employer argued that the standard life vest offered suitable protection against drowning and rejected the recommendation. The Ontario arbitrator tossed the grievance, finding that the current life vests didn't create an additional risk and met the safety requirements of the OHS laws and collective agreement [[*Corporation of the County of Frontenac v Ontario Public Service Employees Union*](#), 2024 CanLII 65893 (ON LA), July 15, 2024].

