

OCTOBER 2023 MONTH IN REVIEW

Ontario

LAWS & ANNOUNCEMENTS

Labour Standards

Sep 26: [Bill 79](#), the *Working for Workers Act, 2023*, which will increase the maximum penalties for a conviction of wrongfully withholding a foreign national's passport or work permit to \$500,000 plus 12 months prison for an individual and \$1 million for a corporation, has passed Third Reading and will take effect when it's proclaimed.

Termination

Sep 26: Newly passed [Bill 79](#), the *Working for Workers Act, 2023*, makes remote workers eligible for the same enhanced notice as in-office workers. Previously, terminations of 50 or more workers over a 4-week period required "enhanced" notice of up to 8, 12 or 16 weeks. To qualify for enhanced notice, workers must work at the employer's "establishment."

Action Point: Find out how to [comply with group termination rules](#)

Labour Standards

Sep 26: [Bill 79](#), the *Working for Workers Act, 2023*, which just passed Third Reading, will require employers to provide new hires specific information about their job, pay, work location and hours of work in writing. Currently, employers only have to give new hires the latest version of the ESA employment standards and general information about the law.

Leaves of Absence

Sep 26: [Bill 79](#), the *Working for Workers Act, 2023*, which has passed the Assembly but not yet been proclaimed effective, provides unpaid military reservist leave to employees who are in treatment, recovery or rehab for a physical or mental health illness, injury or medical emergency suffered as a result of participating in reservist operations or activities.

Action Point: Use the HR Insider [template](#) to create a military reservist leave policy

Health & Safety

Sep 26: The Ontario Assembly passed [Bill 79](#), the *Working for Workers Act, 2023*, which increases the maximum fine for a corporation convicted of an *OHS Act* violation from \$1.5 million to \$2 million, among the highest in Canada. Last year, Ontario raised maximum OHS fines to \$500,000 for individuals and \$1.5 million for corporate directors. The Act has yet to be proclaimed effective.

Labour Relations

Sep 22: Ontario was able to avoid school disruptions by reaching a tentative agreement with the Elementary Teachers' Federation of Ontario (ETFO) Education Workers on the terms of a new central agreement.

Accessibility

Oct 1: Reminder: Dec. 31 is the deadline for businesses and non-profits with 20 or more employees to submit [compliance reports](#) confirming that they've met their obligations under the Accessibility for *Ontarians with Disabilities Act*. So-called AODA reporting for these organizations is required every 3 years.

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

Training

Aug 25: In response to the ongoing labour shortage, Ontario announced that it will invest an additional \$126 million in the Skills Development Fund. The goal is to ensure that at least 100,000 workers get the free training necessary to be deemed

hire-able by employers.

Immigration

Sep 18: Public [surveying](#) ends on what, if anything, Ontario should do to improve its process of recognizing the credentials of workers with foreign training, certification in a skill or a professional degree who want to ply their trade in the province.

Employment Benefits

Oct 17: That's the deadline to comment on a Ministry of Finance [proposal](#) to implement regulatory changes that would allow for implementation of permanent target pension plans in Ontario.

Workplace Violence

Sep 20: Ontario will provide more than \$4 million's worth of Victim Support Grants (VSG) to victims of intimate partner violence, domestic violence, human trafficking and child exploitation across the province.

Action Point: Find out [how to protect your employees](#) from the risk of workplace domestic violence

CASES

Termination: Wrongfully Dismissed Employee Didn't Do Enough to Mitigate His Damages

An employer claimed that a wrongfully dismissed driver who eventually caught on with another company didn't do enough to mitigate his damages, citing the more than 100 available driving jobs that were available in the local area during his period of unemployment. The Ontario court agreed and reduced the driver's damages accordingly. It also refused to award him *Wallace* damages for bad faith termination because there was no evidence that the driver suffered mental distress or that the employer engaged in any outrageous or egregious conduct [[TTC v ATU, Local 113](#), 2023 CanLII 87759 (ON LA), September 27, 2023].

Action Point: Find out about the [7 things](#) wrongfully dismissed employees must do

to “mitigate” their damages

Drugs & Alcohol: Workers Comp Covers Worker’s Drunk Driving Accident Injuries

A construction foreman was pled guilty to drunk driving after crashing a company-owned vehicle carrying 2 other crew members as passengers. The incident occurred after work. The WSIB ruled that the accident occurred during the course of employment because the foreman’s job required him to drive the vehicle to and from the worksite and awarded him workers comp benefits. The employer appealed but to no avail. The Ontario court concluded that the WSIB’s ruling was reasonable and in line with coverage rules and case law. Nor did the foreman’s misconduct in driving drunk disqualify him from receiving workers comp benefits for the work-related serious impairment he suffered [[*Interpaving Limited v. Workplace Safety and Insurance Appeals Tribunal*](#), 2023 ONSC 5162 (CanLII), September 13, 2023].

Drugs & Alcohol: “Unremarkable” Vehicle Accident Doesn’t Justify Post-Incident Testing

A non-negative drug test cost an electrical apprentice his job. The union claimed that the company didn’t have just cause either to do the post-incident test or terminate the apprentice based on its results. The Ontario Labour Relations Board agreed, noting that the incident that triggered the test (the apprentice backed his vehicle into a trailer hitch) was “unremarkable” and didn’t cause personal injury or serious property damage. And since the test wasn’t justified, the company couldn’t rely on test results to terminate [[*IBEW, Local 530 v Mellon Inc.*](#), 2023 CanLII 79409 (ON LRB), August 22, 2023].

Action Point: Find out [how to create a legally sound drug testing policy](#) at your workplace