

## JULY 2023 MONTH IN REVIEW

# Alberta

### LAWS & ANNOUNCEMENTS

#### New Laws

Jun 15: Alberta blasted the newly proposed federal *Sustainable Jobs Act* establishing a national advisory commission to transition Canada's workforce to a "net zero economy" as another assault on its own regulatory authority. "Alberta will not recognize, cooperate with or enforce any attempt to phase out our province's oil and gas industry or workforce," the government proclaimed.

#### New Laws

Jun 27: Alberta drivers ages 18 and over who've completed their 24-month driving period with no suspensions or demerits in the past 12 months will now automatically exit from the Graduated Driver License program without having to take another driving test and shell out the \$154 GDL exit fee

### CASES

#### Termination: OK to Terminate Senior Employee for Misusing Company Gas Card

An electric company fired a Powerline Technician (PLT) and team leader for misusing the gas card meant to cover the company vehicle he drove to fuel his own personal car. We can never trust him again, the company concluded. The union admitted that the PLT deserved to be disciplined but claimed that termination was excessive. The Alberta arbitrator tossed the grievance. This wasn't just an isolated incident but a "series of premeditated acts conducted over a period of months" in which the PLT deliberately took advantage of his inside knowledge of the blind spots and weaknesses in the company's internal controls. The fact that the PLT was dealing with extremely difficult personal circumstances was neither an excuse nor

justification [[ATCO Electric v Canadian Energy Workers Association](#), 2023 CanLII 46716 (AB GAA), May 17, 2023].

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

### **Accommodations: Employer Didn't Do Enough to Accommodate Employee's Disability**

Why did Alberta Health Services (AHS) fire the employee? The employee claimed it was because of the absences and missed time for medical appointments he had to take as a result of a depressive and anxiety disorder he suffered after a motor vehicle accident. AHS claimed it accommodated the employee's disability and that termination was for performance issues. The Director dismissed the complaint, but the Alberta Human Rights Commission found that the employee had a valid claim and deserved the opportunity to prove it at trial. The performance problems that AHS cited, including missed deadlines, failure to respond, inability to relay information to clients and inability to detect risks might have all been attributable to the employee's disability, the Commission explained. While AHS provided some level of accommodation, it should have inquired further into his disability before deciding on termination [[Peng v Alberta Health Services](#), 2023 AHRC 62 (CanLII), May 26, 2023].

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

### **Workplace Harassment: Termination Wasn't Retaliation for Complaining about Harassment**

Why do you hate me so much? I'm stressed out and too afraid to come to work since I don't know what ignorant thing you're going to say to me next. I suggest you get your stuff together and until then, I'll be happy to work from home. That was the tenor of a note that a sales rep sent to his bosses after being granted a medical exemption from the company's mandatory COVID vaccination policy. The company found the letter insolent, "vexatious and aggressive." If you engage in any similar behaviour over the next 30 days, you'll be terminated for cause, the company warned. The sales rep expressed desire to iron things out but refused to come back to work and didn't show up for a scheduled electronic meeting to discuss the issue. So, the company fired him. The sales rep claimed retaliation for his raising a harassment complaint but the Alberta Labour Relations Board found that the company had valid, non-discriminatory reasons for termination and tossed the complaint [[Malpass v. Motion LP](#), Board File OHS-00076, May 8, 2023].

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