

JUNE 2023 MONTH IN REVIEW

Alberta

LAWS & ANNOUNCEMENTS

New Laws

May 29: The United Conservative Party maintained its majority but by a slimmer margin, losing key seats to the NDP in the Alberta elections. **Bottom Line:** Don't expect major changes to employment, labour and OHS policies, at least in the near future.

New Laws

May 9: Alberta residents who've been forced to evacuate for 7 days or more due to the ongoing wildfires may now apply for a one-time emergency evacuation payment of \$1,250 per adult and \$500 per dependent child under age 18. Evacuees who can't receive an e-transfer or apply online can contact 310-4455 to make alternate payment arrangements.

Privacy

May 25: The privacy commissioners of Canada, Alberta, BC and Quebec will jointly investigate OpenAI, the artificial intelligence company that operates ChatGPT, to ensure that it's secured "valid and meaningful consent" to collect, use and disclose personal information of individuals in Canada via the new app, which has gained over 100 million worldwide users since its release last November.

Action Point: Guard against ChatGPT risks by implementing a legally sound workplace artificial intelligence use policy

CASES

Workplace Harassment: New Case Exposes Employers to Risk of Harassment Tort Lawsuits

If it survives appeal, an alarming new case would make harassment a tort in Alberta. It began when a social media content creator and online talk show host set out to “make life miserable” for Alberta Health Services (AHS) and one of its public health inspectors for enforcing COVID-19 health orders. Making good on his pledge, the content creator named the inspector by name, posted photos from her unlocked social media accounts, called her a “terrorist,” said her husband “looked retarded”, and stated I don’t condone violence but when it happens to you, you’re going to deserve it.” The Court of King’s Bench was appalled and awarded the inspector \$650,000, including \$100,000 for committing what it recognized as the tort of harassment, which arises when a person: “(1) engaged in repeated communications, threats, insults, stalking, or other harassing behaviour in person or through or other means; (2) that he knew or ought to have known was unwelcome; (3) which impugn the dignity of the plaintiff, would cause a reasonable person to fear for her safety or the safety of her loved ones, or could foreseeably cause emotional distress; and (4) cause harm. Although it didn’t happen in a workplace, the case could open the door to employee lawsuits for money damages against Alberta employers for failing to protect them from harassment at work [[Alberta Health Services v Johnston](#), 2023 ABKB 209 (CanLII), April 12, 2023].

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

Discrimination: No Discrimination because Employee Didn’t Request Religious Accommodation

A mall security guard was planning to work his scheduled shift on Sept. 7. But upon learning that his tribal chief had died, he needed to observe certain religious rites. So, while he did show up on time, he told his supervisor that he’d be unable to work the shift. As a result, he got terminated. But what would have been a strong case for failure to make religious accommodations failed for a simple reason: The guard didn’t state that his refusal to work was based on religious grounds and request an accommodation. So, the Alberta court dismissed the case (but did allow the guard to sue on another related claim for retaliation) [[Shodunke v Alberta \(Human Rights Commission\)](#), 2023 ABKB 260 (CanLII), May 2, 2023].

Action Point: Find out [how to create a religious accommodations policy](#) for your workplace

Workers Comp: Being “Sympathetic” Not Enough to Win Injured Worker Lump Sum Benefits

The WCB found a worker with a work-related back injury to be totally disabled, unemployable and entitled to a Zero Based Earnings Loss Payment of 90% of his net monthly earnings until age 65. But the worker wanted the benefits paid in a lump sum. After repeated unsuccessful appeals, the Alberta Court of King's Bench upheld denial. While finding the worker "very sympathetic," the Court ruled that the WCB was on solid legal ground in finding that the money should be paid in installments rather than all at once [[Heney v Alberta \(Workers' Compensation Board, Appeals Commission\)](#), 2023 ABKB 256 (CanLII), April 28, 2023].