

MARCH 2023 MONTH IN REVIEW

Alberta

LAWS & ANNOUNCEMENTS

Telecommuting

Mar 6: That's the deadline to comment on [proposed revisions](#) to WCB Policy 02-01, Working Remotely to clarify an issue of growing importance, namely, an employer's OHS obligations to protect workers who telecommute or work from home or another remote location.

Action Point: Find out about the [10 things OHS laws require you to do](#) to protect the safety of telecommuters

Immigration

Feb 23: The province secured big increases to its immigration allotments over the next 3 years. After just 6,500 allowances in 2022, the Alberta Advantage Immigration Program will be allowed to issue 9,750 nominations in 2023, 10,140 nominations in 2024 and 10,849 nominations in 2025

New Laws

Feb 15: Alberta launched a pilot project to streamline the competency assessment internationally educated nurses must go through to be credentialled by establishing an assessment facility in the province. **Result:** Registered nurses, licensed practical nurses and health care aides will no longer have to travel to BC to undergo assessment.

Health & Safety

Jan 15: The Alberta OHS division issued [revised guidance](#) on how to comply with joint health and safety committees and safety and health representatives requirements, including with regard to when committees and reps are required at a particular workplace.

CASES

Workplace Harassment: Sexual Assault Victim Had Legitimate Excuse to File Grievance Late

A government employee was sexually assaulted by her supervisor. At the employee's insistence, the police dropped the case. The employee then returned to work alongside the attacker doing her best to pretend that the incident never happened. Four years later, she was terminated for unrelated reasons. Another year after that, the union filed a grievance. The Alberta arbitrator ruled that the employee had waited too long and dismissed the grievance. While acknowledging that the filing occurred after the deadline specified in the collective agreement for such grievances, the union contended that the arbitrator should have cut the employee some slack and recognized that she was scared, confused and felt like her hands were tied by having to continue working at the agency while the supervisor was still there. The labour relations board agreed that the arbitrator's ruling was unreasonable and ordered new proceedings be held with a different arbitrator [[Alberta Union of Provincial Employees v Government of the Province of Alberta](#), 2023 CanLII 10935 (AB LRB), February 16, 2023].

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

Drugs & Alcohol: Failure to Follow Test Procedures Makes Drug Test Invalid

When it comes to drug testing, procedures count as much as results. Suncor learned this lesson the hard way when an Alberta arbitrator ruled that a manager didn't have just cause to test a safety-sensitive grader worker who got fired after testing positive. The smell of pot inside the grader coupled with the worker's safety record, overall nervousness and avoidance of eye contact might have been reasonable grounds to suspect he was impaired and not fit for duty. The problem is that the manager didn't properly complete the paperwork and follow the procedures required by the Suncor drug testing policy. **Result:** The test was invalid and the company couldn't use its results to justify termination without cause [[Suncor Energy Inc. v Unifor Local 707A](#), 2023 CanLII 6132 (AB GAA), January 25, 2023].

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

Privacy: Lunchroom Security Cameras Can Stay but Workers Must Be Notified

The union objected when a grocery store unilaterally installed surveillance cameras in the small lunchroom of a remote area warehouse in which all workers had no realistic alternative but to take their breaks. The company contended that the cameras were there to monitor security not productivity, which is far more problematic under privacy laws. Moreover, the cameras were in plain view and not monitored in real time. While ruling that the cameras could stay given the history of security incidents at the site, the Alberta arbitrator ordered the employer to post signs and add language to its theft policy making it clear to workers that:

- The cameras are there;
- The video recordings aren't accessible remotely;
- Only limited personnel have access to the recordings and only as needed to investigate a security incident; and
- The recordings are deleted within 6 months after they're made

[*Teamsters Local Union No. 987 of Alberta v Sobeys Capital Incorporated (Rocky View)*, 2023 CanLII 4464 (AB GAA), January 16, 2023].

Action Point: Implement a legally sound [video surveillance policy](#) at your workplace