

## JULY 2024 MONTH IN REVIEW

# Alberta

## LAWS & ANNOUNCEMENTS

### Immigration

Jul 5: Alberta and Ontario signed an 18-month agreement to work together on international credential recognition and post-journeyperson certification in an effort to cut red tape and make it easier for internationally trained skilled workers and apprentices from one province to ply their trade in the other.

### New Laws

Jul 16: A new one-year Memorandum of Understanding allows Alberta residents to buy wine directly from B.C. winemakers and vice versa, subject to each province's respective sales taxes.

### Employment Benefits

Jun 21: Alberta [revised](#) the rules for calculating adverse deviation (PfAD) in relation to a target benefit component. Effective today, all actuarial valuation reports must reflect the new definition of PfAD as consisting of a 7.5% base and a supplementary percentage. The method for identifying the supplementary percentage must also be documented in the plan's funding policy.

### Accommodations

Jun 17: The Alberta Human Rights Commission issued [new guidance](#) to help employees request and employers to process requests for accommodations in the workplace. The guidance is available in 6 languages—English, French, Spanish, Ukrainian, Punjabi and Tagalog.

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

## Health & Safety

Jul 9: Alberta's 2023 lost-time injury rate dropped to 1.5 per 100 workers, as compared to 2.0 in 2022, the WCB [reported](#). Other key metrics trended in the positive direction, including disabling injury rate, which fell from 3.1 to 2.5, lost-time claims, which went from 38,800 to 30,100, and new claims, which declined by nearly 7,500 to 128,066. The latter 2 declines are especially noteworthy given the nearly 1,000 increase in registered employers. The downside is that fatalities ticked up from 161 to 165.

**Action Point:** Find out [how to create a vibrant safety culture](#) at your organization

## CASES

### Employment Contract: Ex-Employee Doesn't Owe Former Company a Fiduciary Duty

Imperial, a small offset-printer, sued an ex-employee and the company where she now worked for luring away the firm's customers and taking property pertaining to another key client. Although she didn't have a written non-compete or even confidentiality agreement, Imperial claimed Ms. R held a fiduciary position and asked for an injunction pending the outcome of the lawsuit. The Alberta court denied the request, finding that Imperial hadn't made out a *prima facie*, or preliminary, case that Ms. R was a key employee that owed the firm a fiduciary duty. There's no evidence that Ms. R had the "discretion and power to make business decisions such that [Imperial's] legal or practical interests are vulnerable to the exercise of that power discretion." Being a good and valuable employee isn't the same as being a key employee for purposes of finding fiduciary duty, the court explained [[1731271 Alberta Inc v Reimer](#), 2024 ABKB 446 (CanLII), July 19, 2024].

**Action Point:** Find out more about when employees [owe a fiduciary duty](#) to their company

### Termination: Professor Gets Fired for Filing Bad Faith Twitter Harassment Complaint

A controversial university professor became embroiled in a full-blown "Twitter war" with her colleagues. The professor complained to HR contending that the tweets constituted harassment. But after investigating, the university found no harassment and characterized the professor's complaint as being malicious, frivolous, vexatious and made in bad faith. A month later, it terminated her employment. The professor

sued asserting 10 different claims. After going through the extensive evidence, the Alberta arbitrator dismissed most of the grievances but finding for the professor on certain procedural and technical grounds. Because the relationship between the professor and university was destroyed beyond reparation, the arbitration ruled out reinstatement and said that the professor would instead get money damages for the harm she suffered, which would be determined at a later hearing [[Board of Governors of Mount Royal University v Mount Royal Faculty Association](#), 2024 CanLII 68666 (AB GAA), July 2, 2024].

**Action Point:** Use the HRI template to create your own [social media use policy](#)

### **COVID-19: Worker Got Fired for Expressing Safety Concerns about COVID Testing**

A City of Calgary worker required to undergo rapid COVID testing expressed safety concerns about the swabs used to collect samples and refused to be tested. As a result, the City placed him on unpaid administrative leave and then fired him. The worker claimed the actions were retaliatory. The OHS officer agreed and found the City guilty of committing discrimination against a worker for exercising his safety rights. The Alberta Labour Relations Board ruled that the officer's actions were reasonable and tossed the City's appeal [[Wagner v Calgary \(City\)](#), 2024 ABOHSAB 11, June 21, 2024].

**Action Point:** Find out how to create a [legally sound COVID-19 testing policy](#) at your workplace