

APRIL 2024 MONTH IN REVIEW

Ontario

LAWS & ANNOUNCEMENTS

Hiring

Mar 21: Newly passed [Bill 149](#) establishes new requirements for job postings and hiring. Highlights: i. Job ads must list expected compensation range; ii. Ban on requiring Canadian experience; iii. Employers must disclose use of AI to screen, assess or select applicants in job postings; and iv. Job postings must be retained for 3 years.

Action Point: Implement a [pay transparency compliance game plan](#) at your workplace

Labour Standards

Mar 21: [Bill 149](#), which has received Royal Assent and taken effect, contains new protections for restaurant and hospitality workers, including bans on unpaid trial shifts and deductions from wages or tips in the event of dine-and-dash, gas-and-dash or other incidents involving theft of property by customers.

Action Point: Find out which [source deductions are permitted](#) in your province

New Laws

Mar 21: Ontario announced that it will offer a one-time attraction and retention incentive payment of up to \$5,000 to over 1,000 employees in front-line fire, aviation and critical support positions during the 2024 wildfire season. OPSEU-represented support staff in the Aviation Forest Fire and Emergency Services Branch at the Ministry of Natural Resources and Forestry will receive a one-time payment of up to \$1,000.

Immigration

Mar 27: In response to the federal government's cap on the number of international student study permit applications over the next 2 years, Ontario will give priority to public postsecondary programs that prepare students for jobs in high-demand areas, including skilled trades, health human resources, STEM, hospitality and child care.

Action Point: Find out about the 10 things employers [need to know about hiring temporary foreign workers](#)

Workers Comp

Mar 21: [Bill 149](#), aka, *Working for Workers Four Act, 2023*, which has received Royal Assent, authorizes the Ontario WSIB to impose annual "super indexing" increases to workers comp benefits for injured workers above the annual rate of inflation. The bill also reduces the minimum duration of employment for firefighters and fire investigators need to benefit from the presumption that esophageal cancer is work-related from 25 to 15 years.

CASES

Payroll: Companies Fined \$720,000 for Defying Government Orders to Pay Wages

An Ontario court handed out some of the largest penalties for an *Employment Standards Act* offence in recent years—a total of \$720,000 against 3 corporations and their corporate directors. The case began when 7 employees filed ESA wage claims against the companies. After investigating the complaints, the employment standards officer found that the companies owed the employees approximately \$340,000 and issued orders to pay. None of the companies complied with the orders. The court fined the corporations

\$545,000 for 12 ESA violations; the companies' respective directors were also fined \$175,000 after being found guilty of 8 counts of failing to comply with orders to pay wages [997629 Canada Ltd., 8633177 Canada Inc. and 9039376 Canada Inc., *Keo Vichira Yong, Doris Sow and Korka Sow*, [MOL Press Release](#), March 27, 2024].

Workplace Harassment: No Duty to Investigate Harassment Complaint of an Ex-Employee

A fitness worker complained to her employer about being sexually harassed by a co-

worker. The problem is that she didn't do so until more than 6 months after being terminated. So, the employer contended it had no obligation to investigate the complaint and the Ontario Human Rights Tribunal agreed and dismissed the harassment complaint. Failure to investigate a harassment complaint is normally a violation of a worker's right to be free from discrimination in the workplace, the Tribunal reasoned; but that's not the case when the worker is longer in that workplace [*Rouge v. Goodlife Fitness Centres Inc.*, 2024 HRTO 312 (CanLII), February 28, 2024].

Action Point: Find out how to implement a legally sound [workplace violence and harassment investigations policy](#) at your workplace

Discrimination: Government Employee Gets Second Chance to Prove Racial Discrimination Claim

All agreed that physical contact was made when two government employees, one black and one white, passed each other in the hallway. The black employee claimed that she was deliberately shoved; the white employee contended that the contact was purely accidental. The employer's investigator concluded that the allegations of physical assault were unfounded. The black employee disputed the findings and claimed that the investigator, a white man, was racially biased. The Ontario arbitrator ruled that the investigation process wasn't tainted by anti-Black racism or unconscious bias and that the employer thus didn't violate the *Human Rights Act*. But the appeals court found the ruling unreasonable, faulting the arbitrator for using the wrong test to determine whether the employee had a valid claim for discrimination. So, it ordered the arbitrator to reconsider the issue using the correct test [*Association of Management, Administrative and Professional Crown Employees of Ontario v. Ontario (Ministry of the Attorney General)*, 2024 ONSC 1555 (CanLII), March 18, 2024].

Action Point: Beware of [employment practices](#) that inadvertently perpetuate racial discrimination

Termination: Not Double Jeopardy to Issue Multiple Disciplinary Actions for Single Incident

A steel company disciplined a remote-control operator for 3 safety violations resulting in a locomotive collision: i. 50 demerit points for operating the locomotive too fast; ii. 50 demerit points for not following safe work practices; and iii. 50 demerit points for

failing to observe the flashing lights signaling a pot hauler is coming. Added to his previous demerits, the penalties put the operator over the threshold justifying termination. The union argued that the company was punishing the operator 3

times for essentially the same offence in violation of “double jeopardy” rules. The Ontario arbitrator disagreed, finding that these were actually separate violations even though they stemmed from the same incident [[*Algoma Steel Inc. v United Steelworkers, Local 2251\(USW\)*](#), 2024 CanLII 15540 (ON LA), February 7, 2024].