

OCTOBER 2024 MONTH IN REVIEW

Ontario

LAWS & ANNOUNCEMENTS

Employment Standards

Sep 21: Ontario published [regulations](#) implementing employment protections for gig workers under the recently enacted *Digital Platform Workers' Rights Act*. The regulations set out rules for record keeping as well as gig workers' minimum wages, work assignments, and rights to information.

Action Point: Find out about current [employment law protections for gig workers](#).

New Laws

Sep 12: For the third straight year, Ontario staged Level Up! career fairs for students in grades 7 to 12 who are interested in pursuing careers in the skilled trades, including as automotive service technicians, boilermakers, carpenters, and over 140 other in-demand positions.

Employment Benefits

Sep 9: The median solvency ratio of Ontario's pension plans increased 1% at the end of the second quarter, reaching a new high of 123%, according to FSRA's latest [quarterly report](#). The percentage of pension plans projected to be fully funded on a solvency basis remained 90%, as did the percentage of plans falling below an 85% solvency ratio, at 2%.

COVID-19

Sep 10: Ontario will begin providing free flu shots to vulnerable and high priority

populations, including hospitalized individuals, those ages 65 and over, hospital staff, and long-term care homes' residents and staff in early October. Free flu shots for the general public ages 6 months and older will be available starting October 28, at doctor and nurse practitioner offices, participating pharmacies, and some public health units. The province will also furnish free COVID and, for the first time, RSV shots when it receives shipments of the respective vaccines from Health Canada.

Action Point: Find out how to create a legally and clinically sound workplace infectious illness [exposure control plan](#).

Health & Safety

Oct 18: That's the deadline [to comment](#) on proposed OHS regulations that would require employers at construction projects, industrial establishments, mines, farming operations, health care facilities, and other workplaces to ensure that cleaning records for washroom facilities are posted at the site. The regulations are designed to implement OHS changes contained in Bill 190, the *Working for Workers Five Act, 2024*, which is expected to pass the Ontario Assembly before the end of the year.

Workers' Comp

Aug 15: The Ontario Workplace Safety and Insurance Appeals Tribunal (WSIAT) updated its [Guide](#) to Medical Information and Medical Assessors, which describes the help available for medical issues arising in workers' comp appeals, provides information about the Medical Liaison Office, and explains the roles of medical counsellors and medical assessors during the appeals process.

CASES

Employment Benefits: Wrongfully Ending Supervisor's LTD Benefits Costs Company \$360,000

You can imagine the shock a construction supervisor felt upon learning that the company had terminated his long-term disability (LTD) benefits. The company took the position that the supervisor had quit his job by taking leave for hernia surgery and thus pulled the plug on his coverage. After a 5-day trial, the court ruled that the company's decision to pull the supervisor's LTD coverage was a contract violation and awarded him \$360,000 in total damages. The case went all the way to the Ontario Court of Appeal, which upheld the ruling and damage award. The case didn't make an error in finding that the supervisor was disabled when he took leave, even though he was involved in a car accident a couple of months later, reasoned the high court [[Soave v. Stahle Construction Inc.](#), 2024 ONCA 706 (CanLII)],

September 23, 2024].

Action Point: Find out about the [13 constructive dismissal pitfalls](#) you should avoid.

Labour Relations: Union Workers Don't Have Absolute Right to Honour Picket Lines

With a strike by workers in another union looming on campus, a university sent faculty a letter containing the following language: "You have the right to choose not to cross the picket line and can refuse to attend the campus. If you decide not to work on days when you are required to be on campus, be aware that this could result in a one-day salary deduction. This is a deeply personal choice, and we respect your decision." Even though the strike never happened, the union filed a grievance against the university for allegedly violating a collective agreement provision banning it from punishing employees for refusing to cross a picket line. But the Ontario arbitrator didn't buy it. The clause didn't give employees a right not to cross picket lines without any consequences at all; it simply protected them from being disciplined for such a refusal and the university was well within its rights to let them know that they wouldn't get paid for work days that they missed in honouring the picket lines [[Laurentian University v Laurentian University Faculty Association](#), 2024 CanLII 85662 (ON LA), September 11, 2024].

Retaliation: Worker Who Chose to Quit Can't Claim He Suffered Reprisals

A worker complained that coworkers were smoking in enclosed areas and next to propane tanks. Frustrated and concerned by the foreman's failure to take action to deal with the situation, he quit his job and sued the company for alleged reprisals against him for exercising his rights under the *Smoke-Free Ontario Act* and *OHS Act*. The OLRB nixed the case, finding that the worker didn't have a valid claim under either law. Reprisal requires an adverse employment action. The worker in this case quit, and wasn't fired or disciplined, the Board reasoned [[Jason Saucier v Bellai Alliance Masonry Ltd.](#), 2024 CanLII 84653 (ON LRB), August 15, 2024].

Action Point: Find out how to discipline employees [without committing reprisals or retaliation](#).

Termination: Post-Incident Crane Procedure Changes Relevant to Safety Termination Grievance

A steel plant Crane Operator and First Furnace Operator got fired for allowing their crane and its load of scrap metal to pass over a group of workers. The union acknowledged the incident but blamed it on procedural flaws that the plant corrected by revising the procedures after the incident. To support its case, the

union demanded copies of the revised procedures. The plant refused, contending that the revised procedures were irrelevant and that the procedures in place at the time of the incident were the only thing that mattered. But the Ontario arbitrator disagreed, finding that the revised procedures were directly relevant to determine whether it was reasonable to terminate the workers and ordered the plant to deliver them to the union within 15 days [[*Stelco Inc. v United Steelworkers, Local 8782*](#), 2024 CanLII 80300 (ON LA), August 22, 2024].