

OCTOBER 2024 MONTH IN REVIEW

British Columbia

LAWS & ANNOUNCEMENTS

Discrimination

Oct 7: October 7th is the deadline for BC community-based organizations [to apply](#) for Anti-Racism Grants of up to \$5,000 to support projects dedicated to combat systemic racism and promote multiculturalism. The government intends to hand out \$300,000 in total grants.

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

Employment Benefits

Sep 16: BC reached an agreement in-principle with the BC General Employees' Union to provide wild land firefighting staff employed directly by the BC Wildfire Service retirement benefits comparable to personnel in other public-safety focused careers, such as ambulance paramedics and corrections workers. Under the deal, BCWS personnel will also be able to receive their earliest pensions up to 5 years earlier than regular members of the Public Service Pension Plan.

Health & Safety

Aug 22: WorkSafeBC called on employers to prepare for [new OHS first aid regulations](#) taking effect Nov. 1. Key changes: i. First aid kits must include PPE and meet CSA standards; ii. Levels 1 to 3 training become Basic, Intermediate, and Advanced; iii. Mandatory workplace first aid assessments and annual drills; and iv. New performance-based standards for emergency transportation.

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

Health & Safety

Oct 1: New [OHS regulations](#) take effect making it mandatory for employers at construction sites with 25 or more workers to provide flush toilets connected to a sewer system or holding tank that use a flow of clean water or mixture of clean water and chemicals to flush. The regulations also require hand-washing facilities with soap and water or other methods of hand-cleaning, and that employers ensure washrooms are well-maintained, clean, ventilated, and provide privacy.

Drugs & Alcohol

Aug 30: BC continues to wrestle with the toxic drugs death epidemic, with 1,365 lives lost between January 2024 and July 2024, including at least 192 in July. That equates to an alarming 6.2 resident deaths per day. Roughly three-quarters of the victims have been males.

Action Point: Find out how to [effectively control substance abuse](#) at your workplace.

Workers' Comp

Sep 3: BC expanded workers' comp to cover gig workers. Effective today, app-based ride share and delivery service workers will be eligible for workers' comp benefits for work-related injuries and illnesses, including healthcare, wage-loss, and rehabilitation benefits.

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

CASES

Termination: Temporary Layoff Rules Don't Apply to Absence Initiated by Employee

A forest technologist claimed his company laid him off, entitling him to benefits under the ESA's temporary layoff rules. The company contended that he wasn't terminated but had instead asked for some time off in the winter months as he had in many previous years. The arbitrator sided with the company and the technologist appealed all the way to the BC Court of Appeal, which upheld the arbitrator's decision. While somewhat confusing as to the facts, the ruling was legally sound, the high court concluded [[Morrison v. 0812652 B.C. Ltd. dba Timberland Consultants](#), 2024 BCCA 321 (CanLII), September 11, 2024].

Action Point: Find out how to comply with [temporary layoff requirements](#).

Employment Contract: Mandatory Arbitration Clause Is Unenforceable

A software engineer sued his employer for the \$103,067 in unpaid bonuses and commissions he claimed was owed to him under the firm's incentive plan. Citing the mandatory arbitration clause in his contract, the firm argued that the case had to be decided by an arbitration panel in Boston. But the BC court refused to dismiss the case, finding that the clause was unenforceable. The firm added the clause after the contract had been signed without giving the engineer fresh consideration, the clause violated public policy by effectively stripping him of the ESA's minimum protections relating to wages, and the clause was unconscionable because it was one-sided in the firm's favour in requiring the engineer to pay half the costs of the arbitration [[Wiederhold v Aspen Technology, Inc.](#), 2024 BCSC 1731 (CanLII), September 18, 2024].

Termination: Mental Disability Didn't Factor into Termination of Manager for Drinking

A Lodge Accommodations Manager left his post and went out drinking with a coworker. He was still impaired by alcohol when he showed up for his shift the next morning. So, the company fired him. The manager filed a discrimination complaint, claiming that the company treated him extra harshly because of his mental disabilities and substance abuse issues. The BC Human Rights Tribunal dismissed the case as having no reasonable prospect of success. Leaving his post and showing up for work drunk the next day are valid grounds for termination and there was no evidence that the manager's mental disabilities factored into the decision; nor was there any indication that should have caused the company to inquire into whether the manager's conduct was caused by a mental disability [[Bains v. Horizon North Logistics Inc.](#), 2024 BCHRT 247 (CanLII), August 27, 2024].

Action Point: Find out how to create a [legally sound policy](#) for accommodating employees with mental disabilities.