

# Court Refuses to Subtract CERB from Wrongful Dismissal Damage Award

written by vickyp | August 3, 2021



He did nothing wrong; there was no bad blood or vendetta. The Halifax Herald just decided to terminate an employee of 39 years 2 weeks into the emergency on the grounds that the pandemic frustrated his contract. But the employee stood his ground and refused to sign the releases dangled in front of him. The day before trial was to begin, the Herald dropped its frustration defence making the case purely about the wrongful dismissal damages award. The employee did get a late jump on his job search but that was because he was told the layoff would be temporary; so, the Nova Scotia court rejected the Herald's "mitigation of damages" defence. And, going against other courts, it refused to subtract the employee's CERB benefits from the damage award. Why should the Herald get a windfall from a government program to help unemployed workers in the form of a reduced damage award? Finally, it set the notice amount at 22 months, just 2 below the maximum [[Slater v. Halifax Herald Limited](#), 2021 NSSC 210 (CanLII), June 17, 2021].