

HR Insider Case Alerts



HR Updates: Case Alerts

Stay informed on the latest cases impacting Canadian workplaces.

These were the top 11 employment law court cases of the month.

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[Telecommuting Policy](#)

British Columbia

Refusing to Let Underperforming Temp Work from Home Is Not Discrimination

Claiming that something in the office building was making her sick, a client service advisor hired under a temporary contract asked for permission to work from home. The company said no because the advisor's performance didn't meet the standards required for employees to be allowed to telecommute and because the doctor's note she provided was too vague to support her need to work from home. The advisor sued the company for failure to accommodate her disability, but the human rights commission dismissed the complaint. After a series of lost appeals, she took her claim to the BC Court of Appeal, which refused to second guess the lower court's upholding the company's decision to deny permission to work from home based on its telecommuting policy and lack of clear medical information as reasonable [[McNeil v. British Columbia \(Human Rights Tribunal\)](#), 2026 BCCA 296 (CanLII), July 10, 2026].

Action Point: Employees don't have the right to work from home unless employers allow them to. Permission may be either express or implied. The moral of *McNeil* is that employers may also impose reasonable conditions on telecommuting rights, such as requiring them to meet stated performance criteria. The key is to clearly dictate the rules by implementing a [legally sound telecommuting policy](#) at your workplace.

[Telecommuting Policy](#)

[How far must employers go to accommodate an employee's drug addiction?](#)

Québec

No Duty to Accommodate Drug Addicted Worker Who Declines Help

A mobile equipment technician returning from a drug-related disability leave

admitted to smoking pot the night before taking his return-to-work drug test. Not surprisingly, he tested positive for cannabis. Two weeks later, he got a second chance but tested positive for benzodiazepines contained in the legally prescribed Atavin medication he told his employer about. The company gave him another week to get rid of the Atavin and come back for a retest. Even though he admitted to using cannabis a few days earlier, the test came back negative and the technician was allowed to return to work that day subject to random testing going forward. Seven months later, he failed a drug test after admitting to consuming cannabis the previous evening. So, the company terminated his employment. The Québec arbitrator upheld the decision. It should have been clear to the company that the technician was struggling with a drug dependency and that reasonable accommodation was in order. While not pursuing full medical evaluation, the company did at least offer him help, noted the arbitrator citing the HR manager's testimony that "I told him that we would be there to support and help him if he needed it" the way it had when the technician first went on disability leave. In that situation, the technician accepted help leading to his successful rehabilitation. But this time he chose not to take advantage of the offer, thinking he could solve his cannabis problem by himself. At that point, the company's duty to accommodate ended and termination became justified [[United Steelworkers Local 5778 v. ArcelorMittal Mining Canada](#), 2026 CanLII 70757 (QC SAT), July 9, 2026].

Action Point: Drug addiction is recognized as a disability for which employers must make reasonable accommodations to the point of undue hardship. The two takeaways from this case: i. Employers have a duty to inquire whether employees who admit or show signs of drug use are addicts or casual users and offer accommodation in the former case; ii. The obligation to accommodate ends when an employer offers and the employee refuses help. Find out [how far employers must go to accommodate an employee's drug addiction](#).

[How far must employers go to accommodate an employee's drug addiction?](#)

[9 Performance Review Pitfalls and How to Avoid Them](#)

Federal

Citing Lack of "Soft Skills" During Performance Review Is Not Bad Faith

After four straight years of "meets expectations" or "exceeds expectations," a project manager at a digital media company received a rating of "meets some expectations" and needs to improve during his annual performance review based on his behaviour. The union insisted the rating was unfair to the extent it evaluated his "soft skills" and asked the federal arbitrator to change it to "meets expectations." The arbitrator refused citing its lack of jurisdiction to change a performance review that's carried out legitimately and in good faith. The company was well within its rights to point out weaknesses that the manager needed to improve and didn't engage in arbitrary conduct or bad faith by assessing his soft skills during the performance review process [[Canadian Broadcasting Corporation v Association of Professionals and Supervisors \(APS\)](#), 2026 CanLII 63468 (CA SA), June 26, 2026].

Action Point: Find out about the [9 most common performance review pitfalls and how to avoid them](#).

[9 Performance Review Pitfalls and How to Avoid Them](#)

[Employment Practices Audit](#)

Alberta

Unqualified Probationary Prison Guard Wasn't Victim of Racial Discrimination

A Correctional Peace Officer (CPO) who resigned after six months on the job accused his ex-employer of racial harassment and depriving him of the opportunity to write a field training exam or go for further training based on the colour of his skin. The Alberta Human Rights Commission ruled that the CPO had no chance to win and dismissed the complaint citing the employer's "well documented information detailing the extensive efforts" it took to support the CPO during his probationary period. There was also evidence that the CPO wasn't qualified for the job, making him a safety risk to himself, the inmates, and his fellow CPOs [[Zaman v His Majesty the King in Right of Alberta \(Public Safety and Emergency Services\)](#), 2026 AHRC 73 (CanLII), June 17, 2026].

Action Point: Beware of certain kinds of seemingly legitimate [employment practices](#) that may have the effect of inadvertently perpetuating racial discrimination and increasing your liability risks.

[Employment Practices Audit](#)

[Workplace Violence Prevention Game Plan](#)

British Columbia

Uttering a Death Threat Isn't Automatic Grounds for Termination

Should a cleaning worker be fired for saying in Punjabi that she wanted to kill her supervisor? Absolutely, argued the employer, citing its zero tolerance policy for workplace violence and the worker's recent suspension for insubordination. The union contended that the statement wasn't a genuine death threat but an "ill-considered utterance" in "an emotional moment." While acknowledging that expressing a desire to kill one's supervisor is a serious offence, the BC arbitrator concluded that termination was excessive in this case. Mitigating factors included the worker's 26 years of service, lack of discipline for threats or violence, and candor in admitting she made the threat, which indicated that "her rehabilitative potential is high and that she does not pose a danger to the safety of others" [[Servantage Services Corporation v Unifor Local 3000](#), 2026 CanLII 62024 (BC LA), June 18, 2026].

Action Point: The takeaway is that determination of whether violent conduct constitutes just cause for termination generally depends on the specific facts and circumstances involved. The most important thing to do is implement a legally sound and effective [Workplace Violence Prevention Game Plan](#) at your site.

[Workplace Violence Prevention Game Plan](#)

[Workplace Violence Prevention Game Plan](#)

Québec

OK to Fire Worker on Last-Chance Agreement for Violent Outburst

An operations clerk admitted to kicking and damaging two filing cabinets but blamed his actions on the stressful conditions inside the crusher cab where he worked and promised never lose his self-control again. What might otherwise have been a satisfactory explanation was, however, unavailing because the clerk had already been suspended 14 days for similar conduct and was allowed to return only after signing a last-chance agreement promising to keep his nose clean for 270 days or face

termination. As a result, the Québec arbitrator ruled that the employer had just cause to terminate. The last-chance agreement was clear and fair and the union and operator understood what they were doing when they signed it [[Quebec Iron Ore Inc. v. United Steelworkers, Local 9996](#), 2026 CanLII 53076 (QC SAT), June 1, 2026].

Action Point: The key to this case is that the clerk had a history of violent outbursts and was on a last chance agreement when he erupted again. Find out how to implement a legally sound and effective [Workplace Violence Prevention Game Plan](#) at your site.

[Workplace Violence Prevention Game Plan](#)

[Employees Who Disappear While on Leave](#)

Nova Scotia

Enrolling in College while on LTD Leave Is Not Just Cause for Discipline

The Nova Scotia Public Services Commission (PSC) fired a union employee for attending a Bachelor of Journalism degree at King's College while she was on long term disability (LTD). The termination letter cited inconsistency between enrollment in school with being on LTD as the reason for termination. But at the grievance hearing six months later, PSC argued that she was fired for not disclosing that she was enrolled in the course. Either way, the arbitrator found no just cause for discipline. There was no evidence of any misrepresentation or lack of cooperation on the employee's part. Attending school was not only consistent with her assessed capabilities but also part of her rehab plan. And while the collective agreement required employees to disclose educational enrollment while on sick leave, there was no such disclosure language pertaining to LTD [[Nova Scotia Government and General Employees' Union v. Nova Scotia \(Public Service Commission\)](#), 2026 CanLII 69910 (NS LA), July 8, 2026].

Action Point: The case illustrates the importance of maintaining communication with employees on long-term leave. While the employee in this case enrolled in school, the most common scenario involves employees who go AWOL or [disappear while on leave](#).

[Employees Who Disappear While on Leave](#)

[Mobile Device Workplace Use Policy](#)

Federal

Using Personal Cellphone on Job Is Just Cause to Fire Employee on Last Chance

Air Canada terminated a Cargo department employee for violating his Last Chance Agreement (LCA) by using a personal electronic device in a restricted area while operating potentially hazardous equipment. Even though it excluded a screenshot taken during a Microsoft Teams videoconference, the federal arbitrator found ample evidence that the employee was talking on his cellphone while in a tractor in an active work area. This was also a clear violation of the LCA for which Air Canada wasn't required to show any lenience [[Air Canada v Iam, District Lodge 140](#), 2026 CanLII 70770 (CA LA), June 26, 2026].

Action Point: One big reason Air Canada won is that it had clear written rules banning workers from using cellphones, headsets, and other personal devices that could interfere with communication or cause distractions that lead to accidents and injuries. Find out how to implement a legally sound and [effective Cellphone/Mobile Device Workplace Use Policy](#).

Nova Scotia

Placing Manager on Leave Isn't Reprisal for Harassment Complaint

A health centre manager claimed he was put on paid administrative leave in reprisal for complaining about alleged respectful workplace breaches committed by his boss. The OHS investigator found no reprisal, finding that the centre put the manager on leave not as punishment but to protect him pending the investigation into his toxic relationship with the boss. The Nova Scotia Labour Board upheld the ruling. Even if it was an adverse action, there was no evidence that the manager was put on leave because he complained. Moreover, he complained to the employer before the new Nova Scotia OHS psychological harms protections he claimed he was asserting officially took effect [[Fells v IWK Health](#), 2026 NSLB 29 (CanLII), June 25, 2026].

Action Point: Courts are divided on the issue of whether putting an employee on leave pending the results of a harassment investigation is a disciplinary measure subject to reprisal protections. But one thing that is clear is that speaking out against workplace violence and harassment isn't blanket immunity to violate company rules and policies. Find out [how to discipline employees for legitimate offences without committing reprisals or retaliation](#).

Ontario

Second Failed Drug Test Is Just Cause to Fire Safety-Sensitive Truck Driver

A truck driver who was put on unpaid leave after failing a drug test was allowed to return to work with a written warning after completing education and submitting to six random drug tests over the next 12 months, all of which he passed. Two years later, he tested positive for marijuana again. The driver admitted to casual marijuana use but insisted that it was a one-time incident that would never happen again. But having already given him one second chance, the company decided to cut ties with the driver. The Ontario court found just cause for termination citing the driver's safety-sensitive job, his signed acknowledgment of receiving training on the company's drugs policies, and his previous transgression. Nor was disability discrimination an issue since the driver didn't claim to have an addiction or dependency. Last but not least, random testing was reasonable given that the driver's route took him into the U.S. and that mandatory drug testing for international drivers was mandatory under U.S. law [[McCarthy v. Bison Transport Inc.](#), 2026 ONSC 3729 (CanLII), June 26, 2026].

Action Point: Under a 2013 Supreme Court case called *Communications, Energy and Paperworkers Union of Canada, Local 30 v. Irving Pulp & Paper, Ltd.*, random drug testing is allowed only when workers are safety-sensitive **and** there's a documented drug use problem at the particular workplace. But *Irving* didn't apply in this case because the driver regularly crossed into the U.S. and random drug testing is required by U.S. law. Find out [how to create and implement a legally sound Drug and Alcohol Testing Policy](#) at your workplace.

Federal

Double Pre-Employment Drug Testing of New Trainees Is Unreasonable

After extensive hearings, a federal arbitrator ruled that three parts of a railway's drug and alcohol testing policy were unreasonable: i. Requiring newly hired trainees for safety sensitive positions to undergo both pre-employment drug testing and a later second drug test before completing their training; ii. A minimum 28-day cannabis ban; and iii. Reducing oral fluid drug testing thresholds from 10ng/ml to 4ng/ml and 2ng/ml. However, the arbitrator upheld other provisions challenged by the union as not unreasonable [*Teamsters Canada Rail Conference – Maintenance of Way Employees Division v Canadian Pacific Kansas City Railway Company*, 2026 CanLII 60171 (CA LA), June 19, 2026].

Action Point: Although this case turned on the reasonableness of the terms of the policy, workplace drug testing cases are often decided based not on what a testing policy says but how it's actually carried out. Find out [how to create a legally sound drug and alcohol testing policy](#) at your workplace.