Illegal Reprisals – Know The Laws Of Your Province



Don’t punish employees for exercising their workplace rights.

Reprisals, aka, discriminatory action, refers to punishing employees for engaging in activities that are legally protected, such as complaining to government authorities or blowing the whistle on internal wrongdoing. And if you do it, you face liability. Here’s a summary of the activities protected against reprisal under criminal, OHS, human rights, labour relations, employment standards and other laws

Employee Activities Protected Against Reprisal

> *Employees may, without being dismissed, suspended, laid off, demoted, being financially penalized or disciplined, or threatened with such actions:*

FEDERAL

a. Criminal: Provide information to a law enforcement official about an offence the employee believes has been or is being committed by an employer, or corporate officer or director (*Criminal Code,* Sec. 425.1); **b. OHS:** Testify, provide information about work conditions, or try to get the law enforced or act in accordance with law, (*Canada Labour Code*, Sec. 147); **c. Human Rights:** File a Human Rights complaint (*Canadian Human Rights Act*, Sec. 14.1); **d. Labour:** Join, support or get kicked out or punished by a union, file a complaint, testify, partake in a legal strike, refuse to act as a scab and exercise rights under the Act (*Canada Labour Code*, Sec. 94(3)); and e. Employment Standards: File a complaint, testify, give information to an enforcement official, seek enforcement or exercise any right under law (*Canada Labour Code*, Sec. 246.1)

ALBERTA

a. OHS: Perform functions of a JHSC member and comply with the law, including refusing work and serving on JHSC (*OHS Act*, Sec. 18); **b. Employment Standards:** File a complaint, testify, request or demand entitlements under ESC or provide info to enforcement officer (*Employment Standards Code*, Sec. 125); **c. Human Rights:** File, testify or help initiate or prosecute a human rights complaint (*Alberta Human Rights*

Act, Sec. 10(1)); and **d. Labour:** Join, support, select as a bargaining agent or get in trouble with a union, file a complaint, furnish evidence in a proceeding, partake in a legal strike and exercise other rights under the Act (*Labour Relations Code*, Sec. 149(a))

BRITISH COLUMBIA

a. OHS: Exercising any OHS right or duty, testify or give OHS-related info to employer, co-worker, union or enforcement official (*Workers' Comp. Act*, Sec. 48); **b. Employment Standards:** File a complaint or appeal (*Employment Standards Act*, Sec. 83(1)); **c. Human Rights:** File, testify or help initiate or prosecute a complaint (*Human Rights Code*, Sec. 43); and **d. Labour:** Disclose a violation or testify in a proceeding, join, promote, form or administer a union and refuse to work as a scab, file a complaint, testify, partake in a legal strike and exercise other rights under the Act (*Labour Relations Code*, Secs. 5, 6 and 68(3)); and

MANITOBA

a. OHS: Testify, give information about work conditions, act as a JHSC member, refuse dangerous work, exercise rights under the Act, try to get the Act enforced or "take reasonable action at the workplace" to protect another person's health or safety (*Workplace Safety & Health Act*, Sec. 42(1)); **b. Human Rights:** File a complaint, testify or participate in a case (*Human Rights Code*, Sec. 20); **c. Labour:** Join, support, get expelled or suspended by a union, file a complaint, furnish evidence in a proceeding, partake in a legal strike, refuse to work as a scab and exercise other rights under the Act (*Labour Relations Code*, Sec. 17); and **d. Employment Standards:** File a complaint, participate in a proceeding, furnish information, ask for clarification about his rights to benefits, exercise ESC rights and have her wages garnished (*Employment Standards Code*, Sec. 133(1))

NEW BRUNSWICK

a. OHS: Try to get the Act or *Smoke-free Places Act* enforced or act in compliance with it (*OHS Act*, Sec. 24(1)); **b. Human Rights:** File a complaint, testify or participate in a case(*Human Rights Act*, Sec. 11); **c. Labour:** Join a union, file a complaint, testify or participate in a proceeding, get in trouble with a union, partake in a legal strike and refuse to partake in an illegal lockout (*Industrial Relations Act*, Sec. 3); and **d. Employment Standards:** Apply for leave, file a complaint and give evidence of wrongdoing by employer (*Employment Standards Act*, Sec. 28)

NEWFOUNDLAND/LABRADOR

a. OHS: Be on a JHSC or act as a safety representative, testify, give information to an investigator, reasonably refuse dangerous work or exercise other rights under Act (*OHS Act*, Sec. 49); **b. Human Rights:** File a complaint, furnish evidence or help in a case (*Human Rights Act*, Sec. 20); **c. Labour:** Exercise rights under the Act, partake in a legal strike, join and work for a union, file a complaint, testify or disclose information for use in a proceeding and get expelled or suspended from a union (L*abour Relations Act,* Secs. 24, 25 and 28); and **d. Employment Standards:** Testify, help an investigation, complain, participate in a proceeding and seek clarification of his rights (*Labour Standards Act*, Sec. 78(1))

NORTHWEST TERRITORIES

a. OHS: Testify, give information to a safety officer regarding work conditions, be on a JHSC, refuse dangerous work and exercise other OHS rights (*Safety Act*, Sec.

22(1)(c)); **b. Human Rights:** File a complaint, give evidence and participate in a proceeding (*Human Rights Act*, Sec. 15); **c. Labour Relations:** Join, support or get kicked out or punished by a union, file a complaint, testify, partake in a legal strike, refuse to act as a scab and exercise rights under the Act (*Canada Labour Code*, Sec. 94(3)); and **d. Employment Standards:** Start or be entitled to leave, have wages garnished, testify, request or demand ESA entitlements or file complaint (*Employment Standards Act*, Sec. 96)

NOVA SCOTIA

a. OHS: Act in compliance with OHS Act, be on or involved with a JHSC, act as or try to get elected as a representative, refuse work, seek access to information about safety, testify or give information to investigators, unless the employer or union can prove that its action is "solely motivated by legitimate business reasons" (*OHS Act*, Sec. 45); **b. Human Rights:** File a complaint, furnish evidence or help in a [Human Rights] case (*Human Rights Act*, Sec. 11); **c. Labour Relations:** Be a union member, get expelled or suspended from a union, file a complaint, testify or disclose information for use in a proceeding, participate in a legal strike, refuse to work as a scab and exercise other rights under the Act (*Trade Union Act*, Sec. 53); and **d. Employment Standards:** File complaint, testify, give evidence, ask about an LSC right, ask employer to comply, discuss his or another person's wages, take or show intention to take leave or refuse to work in a retail business on a uniform closing day (*Labour Standards Code*, Sec. 30(1))

NUNAVUT

a. OHS: Testify, give information to a safety officer regarding work conditions, be on a JHSC, refuse dangerous work and exercise other OHS rights (*Safety Act*, Sec. 22(1)(c)); **b. Human Rights:** File a complaint, give evidence and participate in a proceeding (*Human Rights Act*, Sec. 15); **c. Labour Relations:** Join, support or get kicked out or punished by a union, file a complaint, testify, partake in a legal strike, refuse to act as a scab and exercise rights under the Act (*Canada Labour Code*, Sec. 94(3)); and **d. Employment Standards:** File complaint, give evidence, request LSA entitlements and make required disclosures (*Labour Standards Act*, Sec. 67.1)

ONTARIO

a. OHS: Act in compliance with the Act, seek Act's enforcement, give evidence in connection with the Act or *Coroner's Act* inquest (*OHS Act*, Sec. 50(1)); **b. Human Rights:** Enforce his rights under law, participate in a proceeding and refuse to violate another person's rights (*Human Rights Code*, Sec. 8); **c. Labour Relations:** Be a union member and assert rights under the Act (*Labour Relations Act*, Secs. 70-73); and **d. Employment Standards:** Ask the employer to obey the law, ask about or assert rights under the Act, file a complaint, testify, participate in a proceeding, discuss his own or another person's wages for pay equity purposes, take leave and get her wages garnished (*Employment Standards Act*, Sec. 74(1))

PRINCE EDWARD ISLAND

a. OHS Act: Act in compliance with and seek enforcement of the Act (*OHS Act*, Sec. 30(1)); **b. Human Rights:** Make a complaint, give evidence and help a prosecution (*Human Rights Act*, Sec. 15); **c. Labour Relations:** Be a union member and exercise other rights under the Act (*Labour Code*, Sec. 10); and **d. Employment Standards:** File a complaint, testify or disclose information about the employer's wrongdoing (*Employment Standards Act*, Sec. 35)

QUÉBEC

a. OHS: Be on a JHSC or act as a safety representative, refuse dangerous work and act in accordance with the Act (*OHS Act*, Secs. 30, 31 and 81); **b. Human Rights:** Participate in a complaint (*Charter of Human Rights,* Sec. 82); **c. Labour Relations:** Be a union member and exercise a right under the Code (*Labour Code*, Sec. 14); and **d. Employment Standards:** Disclose information about employer's wrongdoing, refuse to work for family and medical reasons and exercise rights under the Act (*Labour Standards Act*, Sec. 122)

SASKATCHEWAN

a. OHS: Act in compliance with the law, seek its enforcement, help establish a JHSC, act as a safety representative or try to get one appointed, testify, give information to an investigator or radiation safety officer, JHSC or safety representative and refuse dangerous work (*Sask. Employment Act*, Sec. 3-35); **b. Human Rights:** File a complaint, testify, furnish information and participate in a case (*Sask. Human Rights Code, 2019,* Sec. 53); **c. Labour:** Be in a union, testify, disclose required information, participate in a proceeding, file a complaint and exercise other rights (*Sask. Employment Act*, Secs. 6-5 and 6-6); and **d. Employment Standards:** Request or require employer to comply, apply for or take employment leave, request modification of the duties or reassignment due to a disability, seek to enforce the law, have wages seized or attached, report wrongdoing and testify (*Sask. Employment Act*, Secs. 2-8 and 2-42)

YUKON

a. OHS: Act in accordance with and seek enforcement of the Act (*OHS Act*, Sec. 18(1)); **b. Human Rights:** Do or propose to do what the Act permits or requires (*Human Rights Act*, Sec. 30); **c. Labour Relations:** Join, support or get kicked out or punished by a union, file a complaint, testify, partake in a legal strike, refuse to act as a scab and exercise rights under the Act (*Canada Labour Code*, Sec. 94(3)); and **d. Employment Standards:** Testify or give information to an enforcement official (*Employment Standards Act*, Sec. 108)