Run For Your Lives! There's A New Sheriff In Town

In yet another attempt to streamline and rationalize government services and administrative justice, the Québec Government adopted legislation in June of this year that will result in the merger of the province's employment standards commission (*Commission des normes du travail*), workplace health and safety commission (*Commission de la santé et de la sécurité du travail*) and pay equity commission (*Commission de l'équité salariale*) into one single administrative body which shall be called the *Commission des normes, de l'équité, de la santé et de la sécurité du travail*. The new commission will generally continue the activities of its merged entities.

However, what is of greater significance is the creation of a new, all-in-one, labour, employment and workers compensation tribunal that will result from the merger of Québec's labour board (*Commission des relations du travail*) with the *workers compensation board* (*Commission des lésions professionnelles*) that will form the new Administrative Labour Tribunal (the 'ALT').

As a result, effective January 1, 2016, both employees and employers will be required to seize the ALT of most disputes arising under Québec's *Labour Code,* its *Act respecting Labour Standards,* its *Act respecting occupational health and safety* and its *Act Respecting Industrial Accidents and Occupational Diseases*.

The ALT will sit in four divisions: the labour relations division, the occupational health and safety division, the essential services division and the construction industry and occupational qualification division.

From a practical perspective, the most significant change concerns the manner in which a party must submit a dispute to the ALT. The party will be required to file an "originating pleading" with one of the ALT's offices. The originating pleading "must specify the conclusions sought and set out the grounds in support of them".

This process could mark a significant departure from the current procedure which essentially consists of the filing of standard forms that provide little information regarding the alleged facts that give rise to the dispute. Furthermore, under the current system, the conclusions sought are not specified. Depending on how the new rules are applied, the new procedure could force the plaintiff to narrow the scope of the dispute at the outset which should facilitate both the conciliation process and, if need be, the actual hearing of the dispute before the ALT.

With respect to conciliation, the ALT will have the power to ask a conciliator to meet with the parties and attempt to bring them to an agreement. However such conciliation will only take place with the consent of the parties. While this is a positive development that reflects the current practice at the legacy tribunals, we feel that law makers should have seized this opportunity to make attendance at pre-hearing conciliation a mandatory step in the dispute process.

Finally, the law creating the ALT formalizes the process for pre-hearing conferences, although such conferences are not mandatory and are called at the discretion of the ALT. This also is a positive development as it will encourage the parties to narrow the scope of the issues and of the proof for the hearing, which should shorten the length of the hearings, especially in the case of psychological harassment complaints.

Time will tell whether these changes improve the administrative justice system applicable to workers and employers.

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