

# Three Developments That Should Be On Employers' Radars



## 1. Sky's the Limit: No More Cap on Ontario Ministry of Labour Awards

Until recently, employees had the following options to pursue claims for unpaid wages: Engage in (potentially costly) litigation or make a complaint to the Ontario Ministry of Labour and limit the maximum recovery to \$10,000.

However, effective February 20, 2015, there is no more cap on awards made by the Ministry of Labour. Employees now have the ability to pursue a full claim for wages as far back as two years.

This development is undoubtedly employee friendly – a Ministry of Labour complaint is made and investigated without any cost to the employee and proceeds significantly faster than litigation. Without a cap on the amount of an award, employers should expect to become much more familiar with the Ministry of Labour complaint process.

## 2. Don't Procrastinate: It's Time to Comply with the *Accessibility for Ontarians with Disabilities Act, 2005*

Almost all businesses in Ontario have obligations under the *Accessibility for Ontarians with Disabilities Act, 2005* ("AODA") and, with a recent report finding that more than 60% of businesses are non-compliant, the media is starting to take note.<sup>1</sup> In addition, while enforcement efforts are being reduced from previous years, it has been revealed that the Ontario government plans to conduct 1,200 AODA compliance audits this year.<sup>2</sup>

Businesses found to be non-compliant with the AODA may face significant fines or penalties and receive negative attention associated with failing to meet minimum accessibility standards. With increasingly stringent requirements under the AODA coming into force over the next several years, it's time to take a look at the AODA and determine what your business must do to comply.

### **3. It's Confirmed: Federal Employers Can Terminate Employees Without Cause**

The *Canada Labour Code* (the "Code") prohibits "unjust dismissal" of employees. Up until recently, a prevalent interpretation of the Code has been that, as a result, federal employees may only be dismissed for just cause and that they are otherwise entitled to their job. To this end, the Code provides reinstatement as a remedy for unjust dismissal.

However, the February 25, 2015, decision of the Federal Court of Appeal ("FCA") in *Wilson v. Atomic Energy*,<sup>3</sup> has confirmed that the Code does in fact permit termination of employees *without* cause.

The FCA clarified that a without cause termination is not necessarily unjust. Further, it was noted that the Code specifically sets out a minimum notice period that must be provided to employees terminated without cause; such a provision would be meaningless if without cause termination was prohibited by the Code.

It will remain important for employers to carefully consider and carry out terminations in order to avoid a determination of "unjust dismissal" for the purposes of the Code. However, the FCA's ruling makes clear that without cause termination is available to federal employers of non-unionized employees.

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