

Top 5 HR Cases of August 2026



Although legislatures were in recess, courts across Canada were busy in August. The month featured two important cases from Ontario's highest court, the Court of Appeal, on pressing employment issues, including a landmark ruling on the enforceability of employment contract termination notice limits. Another fascinating case out of Alberta weighs employees' Occupational Health and Safety (OHS) workplace harassment protections against the free-speech rights of third parties. Here's a summary of the month's five most significant cases.

1. Ontario High Court Relaxes Scrutiny for Enforceability of Termination Notice Limits

What Happened: Ontario's top court unanimously ruled that employment contract without-cause termination provisions containing the words "at any time" or "at any time and for any reason" aren't, by that language alone, inconsistent with the *Employment Standards Act* (ESA). The case involved a 71-year-old controller who received the ESA minimum two weeks' notice after being terminated without cause under a clause allowing for termination "at any time, without just cause, upon providing you with only the minimum notice, or payment in lieu of notice. . . required by the ESA" [*Baker v. Van Dolder's Home Team Inc.*, 2026 ONCA 568 (CanLII), August 6, 2026].

Significance: *Baker* is a very important case that offers clarification and relief for employers seeking to contractually limit termination notice to the ESA minimum. Previously, courts have seized upon the slightest ambiguity in the contract language to strike down the clause. *Baker* emphasizes that termination notice limits clauses must be read in context, with a view to the objective intentions of the parties, rather than through a literal, isolated reading that strains to find ambiguity where none exists.

What To Do: Find out more about employment [contract termination notice limits](#) and why they're so hard to enforce.

2. OHS Harassment Duties Require University to Protect Employee from Pro-Life Demonstrators

What Happened: Walking past campus Pro-Life demonstrators and their graphic signs displaying an aborted fetus was literally a traumatic experience for an academic coordinator who suffered a miscarriage on a bathroom floor three months into her

pregnancy. After HR and the faculty association rejected her desperate pleas to stop the demonstrations, she sued the university for not protecting her from workplace harassment. The university claimed that banning the demonstrations would violate demonstrators' free speech rights. Citing their traumatic effect on the coordinator's psychological health, the Alberta arbitrator ruled that tolerating the demonstrators' graphic signs violated the university's OHS duty to protect her from a workplace "hazard." While bound to respect their free speech rights, the university could legally have imposed reasonable limitations to protect the coordinator, such as requiring demonstrators to provide advance notice of demonstrations and keep to one side of the quadrangle. Result: The university had to pay the coordinator \$10,000 in damages [[Mount Royal University v Mount Royal Staff Association](#), 2026 CanLII 78315 (AB GAA), August 4, 2026].

Significance: Free speech doesn't give workers or visitors licence to harass another person at the workplace, especially when employers can impose reasonable restrictions to protect the victim while still respecting the speaker's speech rights.

What To Do: Find out more about the [laws governing free speech and political speech](#) in the workplace and [how to impose fair restrictions without violating employees' rights](#).

3. City Official Voluntarily Resigned and Wasn't Constructively Dismissed

What Happened: While admitting to handing in a written resignation letter, a senior government official claimed he was forced to resign and sued the city for constructive dismissal. But the New Brunswick court wasn't impressed. The fact that the city first broached the issue of resignation didn't automatically prove the official was forced out. Objectively, nobody told him he **had to** resign, the court reasoned, even if that's how he subjectively understood the message. As a result, the resignation was voluntary and the official not only wasn't entitled to damages but also had to pay the city's legal costs [[Daniel Laforge v. Grand Falls](#), 2026 NBKB 162 (CanLII), August 5, 2026].

Significance: An employee's intent to resign must be clear and unambiguous. Although the employer won, the case illustrates that even a letter of resignation doesn't demonstrate such an intention when it's given under duress.

What To Do: Find out more about the [law of resignation](#) and how to avoid inadvertent wrongful dismissal by wrongfully assuming that an employee who no longer works for you has resigned.

4. Temporary Physical Disabilities Don't Frustrate Employee's Contract

What Happened: A towing company demoted a senior employee returning from long-term disability from road boss to tow truck driver. The court ruled that the company committed constructive dismissal and awarded the employee 22 months' notice. The company acknowledged constructive dismissal but claimed that the employee's inability to carry out the physical demands of road boss frustrated his contract. The Ontario Court of Appeal ruled that there was no frustration because the company never expressly defined the essential positions of the road boss position. The evidence also showed that the employee's physical limitations were only temporary and that the company could have accommodated them. However, while upholding the ruling on liability, the Court said the lower court shouldn't have included the loss of perks

like the employee's use of the company's tow truck and cellphone as damages and reduced the damage award by \$125,640 [[Hill v. 1359768 Ontario Inc. \(B&B Towing\)](#)], 2026 ONCA 577 (CanLII), August 10, 2026].

Significance: It's extremely difficult to claim that a disability frustrates an employee's contract when there's no written job description expressly spelling out the essential duties of the job.

What To Do: Find out more about the [importance of job descriptions](#) and [how to write them in a legally sound way](#).

5. Onboard Random Drug Inspection of Ship Officers' Bunks Is Valid Safety Measure

What Happened: A merchant shipping company performed a surprise inspection of officers' cabins using drug sniffing resulting in the seizure of alcohol and cannabis products. The union cried foul, contending that the cabins were the officers' "homes" and that the warrantless and unannounced search violated their privacy expectations. The company insisted the inspection was a reasonable safety measure given the dangers, not to mention illegality, of officers being high at sea. The federal arbitrator dismissed the grievance, finding that the search violated neither the law nor the collective agreement. And the company's interest in ensuring safety and complying with shipping laws onboard sobriety requirements outweighed the officers' privacy rights [[Canadian Merchant Service Guild v. Desgagnés Marine Cargo Inc.](#)], 2026 CanLII 69369 (CA SA), July 10, 2026].

Significance: Random inspection and testing are difficult to justify even in a safety-sensitive workplace like aboard a merchant ship.

What To Do: Find out [how to create a legally sound drug testing policy](#) at your workplace.