[Top 5 HR Cases of July 2026]

One of the primary functions of HR directors is to keep CEOs and corporate leaders apprised of new employment laws affecting the company's operations. While new legislation and regulation garner most of the attention, it's often court and tribunal rulings that have the most direct impact on HR activities. But because these cases are hard to find, let alone read and analyze, they tend to fly under the radar. One advantage of an HR Insider membership is that we provide you a monthly briefing of the key cases you need to know about, their potential impact on your HR program, and what to do to address the issue the case involved. Here are the five most significant cases that came down in Canada last month.

1. Refusing to Let Underperforming Temp Work from Home Isn't Disability Discrimination

What Happened: Claiming that something in the office building was making her sick, a client service advisor asked for permission to work from home. The company said no because the advisor's performance didn't meet the standards required for permission to telecommute and because the doctor's note she provided was too vague. 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 upheld 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].

Significance: Employees don't have the right to work from home unless employers allow them to. Permission may be either express or implied. Employers may also impose reasonable conditions on telecommuting rights, such as requiring them to meet stated performance criteria. The takeaway from *McNeil* is that a company doesn't have to compromise those criteria to accommodate an employee's disability if those standards are reasonable and have been consistently enforced in the past.

What To Do: Establish the rules for telecommuting or employees and courts may do it for you. The key is to get out front of the issue by implementing a legally sound telecommuting policy at your workplace.

2. Ontario Shells Out $60 Million to Settle Sexual Abuse Class Action

What Happened: An Ontario court approved the $60 million settlement of the class action lawsuit against the province filed by thousands of individuals for the physical, sexual, and psychological abuse they suffered while placed in provincially operated juvenile detention and reform facilities, aka "Training Schools", between 1953 and 1984. The Ontario government issued a public acknowledgment and expression of regret. Eligible class members will receive compensation ranging from $5,000 to $100,000, depending on the severity of the harm they suffered [*Brown v. His Majesty the King in Right of the Province of Ontario*, 2026 ONSC 2880, May 21, 2026].

Significance: Although *Brown* didn't happen in a work setting, it's an important reminder of why preventing workplace harassment, abuse, and violence has become an essential part of HR programs.

What To Do: You can't deal with psychological harassment and abuse unless you know it's happening. Don't assume workers will tell you; most harassment victims stay silent because they don't want to be seen as troublemakers. One very effective strategy is to use pulse surveys to smoke out signs of a toxic workplace.

3. No Duty to Accommodate Drug Addicted Worker Who Declines Company's Help

What Happened: 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].

Significance: 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.

What To Do: To apply these rules, you need to understand where courts draw the line between reasonable accommodation and undue hardship in actual cases. Find out how far employers must go to accommodate an employee's drug addiction based on those cases.

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

What Happened: After four straight years of "meets expectations" or "exceeds expectations," a project manager at a digital media company received a lesser 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 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].

Significance: While it's not unusual for employees to challenge a negative performance review, the key factor working against the union in this case is that the company clearly wanted to retain the employee and provided the criticism in a constructive way designed to improve his performance. In so doing, "soft skills" and behaviour toward colleagues were perfectly within bounds.

What To Do: Performance review challenges often involve similar issues, including alleged arbitrariness and discrimination by reviewers. Find out about the 9 most common performance review pitfalls and how to avoid them.

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

What Happened: 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 cell phone 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].

Significance: In addition to undermining productivity, employee use of cellphones and other personal devices on the job may create significant safety risks. That makes it essential to establish clear rules governing workplace use of personal devices. The big reason Air Canada won is that it had it did have express 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.

What To Do: Find out how to implement a legally sound and effective Cellphone/Mobile Device Workplace Use Policy at your own site.