Workers Comp Doesn’t Bar Harassment-Based Constructive Dismissal Claim



Less than 2 months after an Ontario arbitrator ruled that the workers comp bar against employees suing their employers for work injuries doesn’t apply to constructive dismissal for harassment, an Alberta court reached the same conclusion. This case involved a self-represented, i.e., lawyer-less, assisted living employee who claimed she was sexually harassed by her male managers during a company retreat. True, workers comp covers mental stress caused by harassment. But, the court reasoned, constructive dismissal is essentially a breach of employment contract claim rather than a negligence and tort claim the workers comp bar was created to prevent [*Dahlen v Avenue Living Communities Ltd*, 2021 ABQB 797 (CanLII), October 5, 2021].