Wrongful Dismissal Limits Raised In Provincial Court Of Alberta



An important development for employers and dismissed employees occurred as of August 1, 2014, when the Government of Alberta raised the limit for claims in the Provincial Court of Alberta (the "Court") from $25,000 to $50,000. This will have important legal and practical implications on how wrongful dismissal litigation is conducted in Alberta.

Many wrongful dismissal cases are currently argued in the Court, and more cases will likely be heard due to the increased monetary limit. Previously, the Provincial Court jurisdiction was limited to amounts in dispute that were $25,000 or less. Because the court dealt with employment-related matters in a less expensive and more informal manner than the Court of Queen's Bench, many dismissed employees took advantage of the Court's ability to adjudicate wrongful dismissal matters where severance was not more than $25,000.

There are inherent challenges when litigating in the Court. It is a very busy court and it takes a fairly lengthy time-period to have a trial scheduled. In some cases, the lack of questioning or document production can be challenging for both the employer as well as the dismissed employee. However, this is one of the advantages of a simplified litigation system.

The judges are practical and, because Provincial Court judges also act as Umpires under the *Employment Standards Code*, they are knowledgeable about employment law concepts and issues. This is not the forum to argue weak cases, whether a plaintiff or a defendant.

The last change to monetary limits occurred approximately 13 years ago when the limits were raised from $7,500 to $25,000. The immediate expectation was that the Court would become clogged with numerous wrongful dismissal awards, but that was not the case.

What does this Increase Mean for Alberta Employers?

From a human resources perspective, better documentation will be required if the employer is contemplating termination and expects litigation. Documents are an important part of the evidence and are important to defend such claims because the dismissed employee can now:

1. 1. claim up to $50,000; and
2. 2. proceed to court without a lawyer.

The employer cannot act unreasonably and expect the termination will not be challenged in court.

Likewise, whatever legal issues the employer may choose to argue, it must act reasonably and be seen as acting reasonably in respect to how they treated the employee, how it terminated the employee, and how it conducts itself in litigation. The Provincial Court judges are cognisant of irresponsible approaches to wrongful dismissal litigation.

If trial dates are delayed because of the increased caseload at the Court, then this may have the unintended effect of creating additional time for the dismissed employee to mitigate their damages by finding alternate employment.

This publication is intended to provide our general comments on developments in the law. It is not intended to be a comprehensive review nor is it intended to provide legal advice. Readers should not act on information in the publication without first seeking specific advice on the particular matter. The firm will be pleased to provide additional details or discuss how this information is relevant to a specific situation.

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Article by Michael D.A. Ford, QC

Davis LLP