INTRODUCTION

This issue of our Newsletter covers a number of different topics that are important for trade unions and their members.

As always, please feel free to contact us with any questions you may have in relation to any of the topics covered in this Newsletter.

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A. ACCESS TO JUSTICE AND THE TORT OF HARASSMENT

Raymond Seelen

Workplace harassment has become the subject of increasingly intense discussion recently. There is a growing recognition among labour lawyers, employers and unions that workplace harassment is more prevalent than previously thought and that greater measures are necessary to combat it. With that in mind, the Supreme Court's decision not to hear an appeal of the Ontario Court of Appeal's decision in *Merrifield v Canada (Attorney General)* 2019 ONCA 205 is somewhat unfortunate.

Merrifield involved a police officer who alleged that he was harassed over the course of his employment with the RCMP. Mr. Merrifield had a keen interest in counter-terrorism and was a member of the RCMP's Threat Assessment Group ("TAG"). TAG provides security to federal politicians and monitors terrorist threats. According to the plaintiff, management was targeting him after he sought the federal Conservative Party's nomination to run as a candidate and after he made several radio appearances to discuss terrorism and national security. After this occurred, Mr. Merrifield was removed from his dream job in TAG, his expenses were audited and he was precluded from any further involvement in counter-terrorism or national security activities.

Mr. Merrifield sued the RCMP on the basis of numerous causes of actions. Among the myriad of claims, Mr. Merrifield also argued that the Court should recognize a tort of harassment. While it is the subject of much discussion, Canadian courts have not yet recognized that workplace harassment can be a cause of action on its own. The general position, as set out in *Piresferreira v. Ayotte*, 2010 ONCA 384, is that such a decision is better left to the legislature than to the courts.

The case was first heard before Vallee J of the Ontario Superior Court of Justice. In her almost 200 page decision, Vallee J agreed with the plaintiff's arguments and created a tort of harassment. According to the Superior Court decision, a plaintiff would be entitled to damages for harassment where they could show that (1) the defendant's conduct was flagrant and outrageous; (2) the defendant either intended to cause mental distress or had a reckless disregard for whether or not they would cause mental distress; (3) the plaintiff did suffer severe or extreme mental distress and (4) the proximate cause of that mental distress was the defendant's actions. Vallee J held that the RCMP had harassed Merrifield and was liable for damages.

The decision was overturned on appeal. With respect to the new tort of harassment, the Court held that this was not an appropriate situation to create such a tort because other legal avenues existed through which Mr. Merrifield could have made his claim. The Court said that this was not a case where the law would be found deficient if it could not give the plaintiff a remedy. Mr. Merrifield's other causes of action were also dismissed and, ultimately, he left without any compensation.

The Court of Appeal's comment that other avenues were available to pursue a harassment claim is interesting. There is no single cause of action for harassment. Instead, the law provides a number of causes of action which apply in different circumstances to compensate victims of harassment. The mechanisms – which include grievances, human rights applications, various torts and wrongful dismissal suits – each work in some circumstances to allow complainants a legal venue to hear their case. However, some complainants are left without any options. Speaking metaphorically, the Canadian legal mechanisms that can be used to address workplace harassment are less like the bricks in a wall and more like the ropes of a net. While the net may restrain many behaviours that constitute harassment, there are some that slip through.

The specific option that the Court of Appeal was concerned with in Merrifield was the tort of intentional infliction of mental suffering. This tort is made out where (1) the defendant's actions were flagrant and outrageous; (2) the defendant's actions were calculated to cause the plaintiff harm and (3) the plaintiff suffered a visible and provable illness.

The Court observed, quite correctly, that the proposed tort of harassment was a less onerous variation of the tort of intentional infliction of mental suffering. The primary difference between the two are that intentional infliction of mental suffering requires intent, whereas the proposed harassment tort could be made out where the defendant was only reckless as to the impact of their actions. A further difference is in the nature of the harm suffered. Perhaps as a relic of its long history, intentional infliction of mental suffering requires visible and provable illness. In practice, this is very difficult to demonstrate. The proposed tort of harassment relaxes this requirement somewhat and requires only severe or extreme mental distress.

The tort of intentional infliction of mental suffering is a very difficult claim to make out. For many employees, workplace harassment does not cause the kind of injury necessary to create a visible and provable illness. Even where it does, it can be extremely challenging to demonstrate that an abuser intended to cause mental suffering by their actions. As such, while the two torts are similar, their differences are significant. Many employees simply do not have the option of pursuing the tort of intentional infliction of mental suffering.

Similar issues arise with respect to other ways that complainants could seek to address workplace harassment. If an employee is unionized, they can initiate a grievance. If the abuse happens to connect to a human rights ground, the employee can apply to a human rights tribunal. If the employee is willing to give up their job, they can end their employment and seek aggravated or punitive damages on wrongful dismissal. Unfortunately, not all employees are unionized; not all abuse is related to human rights; and not all complainants are willing to end their employment over harassment.

The gaps in the current framework are numerous and many employees fall through them. In *Merrifield*, the Court had the option to create a unified test for harassment that would

be available for all employees. Such a change has clear benefits. It would access to justice by both closing existing service gaps and by creating a simpler and streamlined regime that laypeople assessing their options could understand.

Ultimately, the Court did not foreclose that this tort would be recognized in the future and said only that there was nothing in the facts before it that made the creation of a new tort necessary. While it is unfortunate that Vallee J's decision was overturned and that the Supreme Court will not be hearing the appeal, the creation of a tort of harassment remains both possible and probable at some later date.

B. SUPPORTING TRANS AND TRANSGENDER MEMBERS

Meg Atkinson (she/her)

Trans and Transgender Rights

We are learning from our clients that more and more of their members are coming out as trans and transgender, and our clients are learning how to support these members in their workplaces, as well as in their capacity as members of the union.

The terms "trans" and "transgender" are defined as "an umbrella term referring to people with diverse gender identities and expressions that differ from stereotypical gender norms. It includes but is not limited to people who identify as transgender, trans woman (male-to-female), trans man (female-to-male), transsexual, cross-dresser, gender non-conforming, gender variant or gender queer."[1]

Trade unions must learn about trans and transgender identities, and the rights, needs and preferences of trans people, in order to meet the union's duty to effectively represent trans people in their workplaces. Being familiar trans rights, needs and preferences is also important to ensure that trade unions are meeting their own obligations toward their members under the applicable human rights legislation vis-à-vis the member's participation in the trade union as well as the union's duty of fair representation.

Most of our clients are subject to either Ontario laws or federal laws. In both jurisdictions, "gender identity" and "gender expression" have been added to the list of prohibited grounds of discrimination in the relevant human rights legislation:

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[1] *Policy on preventing discrimination because of gender identity and gender expression*, Ontario Human Rights Commission (2014, Government of Ontario)

- In June 2012, the Ontario government passed Bill 33[2] and added "gender identity" and "gender expression" as prohibited grounds in the *Human Rights Code*.[3]

- In June 2017, the Federal government passed Bill C-16[4] to add "gender identity" and "gender expression" to the list of prohibited grounds under Canada's *Human Rights Act*,[5] as well as to extend the protection against hate propaganda on the basis of gender identity under the *Criminal Code*.[6]

These changes have confirmed that persons covered by the *Code* and by the *Act* cannot be discriminated against or harassed in the context of their employment (s. 5 under the *Code*; s. 7 under the *Act*) or their membership in a vocational/employee association, including a trade union (s. 6 under the *Code*; s. 9 under the *Act*), on the basis of their gender identity or gender expression.

These advances have confirmed and strengthened the place of transgendered persons in our workplaces and in our membership.

Resources for Trans People and Trans Allies

As trade union leaders, you are in a position to stand as allies and supporters of your members who are transgender. Although you may be unfamiliar with what language to use and how to show your support, there are many resources you might consult which are free, informative, and available online:

- The 519,[7] which is an agency of the City of Toronto, offers many resources, including a comprehensive set of infographics on the following topics:

    - Gender-Specific and Gender-Neutral Pronouns;
    - Starting Conversations;
    - Being an Effective Trans Ally;
    - Being a Supportive Peer or Co-worker;
    - Supporting an Employee in Transition;
    - If You are Transitioning on the Job;
    - Washrooms and Change Rooms;
    - Creating a Welcoming Environment;

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[2] *An Act to amend the Human Rights Code with respect to gender identity and gender expression*, 1st Sess., 40th Leg., ON, 2012 (assented to 19 June, 2012).
[3] R.S.O. 1990, c. H. 19.
[4] *An Act to amend the Canadian Human Rights Act and the Criminal Code*, 1st Sess., 42nd Parl., 2017.
[5] R.S.C., 1985, c. H-6.
[6] R.S.C., 1985, c. C-46.
[7] http://www.the519.org/education-training/training-resources/our-resources/creating-authentic-spaces

  - Your Rights as a Trans Person

- A blog by Lee Airton, They Is My Pronoun (http://www.theyismypronoun.com/) provides discussion around the use of gender-neutral pronouns including "they," and offers anonymous questions, answered by Dr. Airton, who is a specialist in Gender and Sexuality Studies at Queen's University.

Things to Remember

Remember that employers, colleagues and trade union representatives can use a trans person's gender-neutral pronoun and/or the pronoun they request that you use:

- without having all the facts about transgender people and issues.
- without knowing about what a person's body looks like or which washroom they use.
- without knowing the whole story about why they use this pronoun.
- without agreeing with them about everything.[8]

Indeed, inquiring into any of the above topics may be highly inappropriate and may make a trans person very uncomfortable. Remember as well that some trans people use the more normative pronouns of he/him and she/her. Just because they are trans does not mean they use the pronoun "they."

Practical Ways to Represent Trans Members and To Be An Ally

Things you should do:

- Treat all of your members with respect and dignity, and try to help solve their work-related issues to the best of your ability.
- Make sure you learn a person's name and pronoun and use only the name and pronoun they provide when you address them. If you make a mistake, apologize and move on. If you notice other people using the wrong name and/or pronoun, quietly pull them aside and tell them which ones to use, and provide them with resources to educate them around trans issues.

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[8] The No Big Deal Campaign: https://www.nbdcampaign.ca/. See also the infographics available on this website.

Things you should consider doing:

- Post some of the infographics referred to herein in your office spaces and/or a trans pride flag;
- Post a sign on the bathroom in your union offices indicating it is a gender-neutral space or that anyone is welcome;
- Make pronouns a routine part of introductions, nametags, website profiles and email signatures;
- Add gender-neutral language to your collective agreements and policies;
- Make sure your "non-discrimination" clause in your collective agreements includes gender identity and gender expression, and consider negotiating paid leave and other benefits for members who need time to transition; and
- Participate in an event on November 20 each year, being the Trans Day of Remembrance, which commemorates the many trans people who have been murdered due to transphobia.

As always, if you have any particular questions or concerns regarding representing your trans/transgender members, please contact the author, or any other of the lawyers at CaleyWray.

C. IN SEARCH OF WINDOWS WHEN THE DOOR IS CLOSED: CAUSES OF ACTION IN RESPECT OF WORK RELATED INJURIES

Ken Stuebing

As regular readers of this newsletter likely know, workers generally do not have a right to bring an action for damages arising out of a workplace accident. Any cause of action that a worker may assert in respect of a personal injury or death caused by an accident that arose out of and in the course of an employment statute-barred by the *Workplace Safety and Insurance Act* (*WSIA*).

The right to sue one's employer was replaced by no-fault benefits under the Meredith Report in the early 20th Century. Through this "historic compromise," workers obtained certainty of recovery in the employer-funded, no-fault system of workers' compensation, while relinquishing the right to bring an action for damages arising out of a workplace accident.

The statutory bar to the right to sue one's employer has been held by labour arbitrators to apply in grievance arbitration contexts. Arbitrators have regularly held that where a claim for a type of damages would have been compensable under the *WSIA*, Section 26(2) of the *WSIA* bars an arbitrator from awarding such damages.

Unions advancing grievances that arise in circumstances of a workplace accident are thus required to frame the rights and remedial requests of such grievances as claims for damages or benefits that could not have been made to the WSIB nor would have been compensable under the *WSIA*.

A recent decision of the Ontario Superior Court of Justice puts a novel spin on this jurisdictional issue. In *Ontario Public Service Employees Union v. The Crown in Right of Ontario (Ministry of Community Safety and Correctional Services)*, 2019 ONSC 2952, the Court allowed OPSEU's judicial review application.

OPSEU had filed a grievance alleging that the employer had violated the grievor's rights pursuant to a collective agreement that guaranteed a harassment free work environment. The union argued that the grievor had suffered harassment in the course of his employment and that this had been contributed to by the employer's failure to investigate the allegation of workplace harassment in a timely fashion.

At arbitration, the arbitrator found that the grievor's collective agreement rights had been violated, and specifically held that "it was the employer's inaction and delay in responding to the Grievor's plight such that he was obliged to work and continue to work in what for him was a poisoned work environment," However, the Arbitrator further held that he could not award the grievor damages for the mental stress he had suffered because he did not have jurisdiction to provide financial relief for this stress.

In its Application before the Court, OPSEU argued that the Arbitrator had unreasonably found that he had no jurisdiction to award damages because the grievor's mental stress could not be covered under the *WSIA*.

Section 13(5) of the *WSIA*. That section reads:

> A worker is entitled to benefits for mental stress that is an acute reaction to a sudden and expected traumatic event arising out of and in the course of his or her employment. **However, the worker is not entitled to benefits for mental stress caused by his or her employer's decisions or actions relating to the worker's employment, including a decision to change the work to be performed or the working conditions, to discipline the worker or to terminate the employment**. (emphasis added)

The Court rejected the Respondent employer's argument that this employment function exclusion does not apply as that exclusion only protects "legitimate" employer actions.

The Applicant argued in response that the concept of legitimacy is not part of the *WSIA*. The only question to ask is whether the function at issue is a normal employer function - in this case to investigate an allegation of workplace harassment. The Court appears to agree with the Applicant in its decision noting that, "To do otherwise would be to introduce the concept of fault into what is designed to be a no fault worker's benefits scheme."

Accordingly, the Court allowed the application and remitted the matter back to the same GSB arbitrator for redetermination on the issue of whether the employment function mental stress exclusion applies.

This decision marks one more unique take on the circumstances in which damages can be sought in respect of matters involving a workplace accident or injury. In this instance, the general damages from a the grievance may well prove greater than what would traditionally available had the *WSIA* applied (eg., Non-Economic Loss award and/or Loss of Earnings benefits). The grievor in this matter may stand to benefit from the Union's creative legal strategy.

D. GUIDE TO PREVENTING WORKPLACE VIOLENCE IN THE HEALTHCARE SECTOR RELEASED BY THE GOVERNMENT OF ONTARIO

Micheil Russell

The Ontario government has released its long awaited guide to assist employees and employers in the healthcare sector in relation to the serious problem of workplace violence as defined by the *Occupational Health and Safety Act*. It has been several years since these specific amendments were made to the *Occupational Health and Safety Act* which specifically addressed the issues of workplace violence and workplace harassment.

In August 2019, the government issued a guide specifically designed for employees and employers in the healthcare sector which would assist them in addressing systematically the issue of workplace violence.

The guide lists what the government views as best practices that can be followed by joint health and safety committee members to combat the problem of workplace violence. Specifically, chroma the guide lists a series of recommendations that a joint health and safety committee can make in relation to this issue. The recommendations can include:

- enhancing the workplace violence program, based on a review of workplace violence trends (for example, incidents, notifications received for critical injuries, fatalities and accidents, violence causing injury and investigation results)
- training or educating JHSC members or HSR on workplace violence prevention, as applicable and related to their roles
- making workplace violence prevention presentations at employee orientation or when on-boarding new, transferred and returning workers
- having health and safety champions in every unit
- establishing a workplace violence sub-committee under the JHSC, led by a senior person (for example, a CEO and co-chaired with a worker member of the JHSC) to assist with implementing the workplace violence prevention program and making sure it's effective

The joint health and safety committee can also be involved with other workplace violence prevention practices beyond the requirements of the *Occupational Health and Safety Act*, including:

- focusing on workplace violence hazards during monthly workplace inspections
- sponsoring activities about workplace violence prevention (for example, during health and safety week and nursing week)
- writing articles on workplace violence prevention for the organization's newsletter
- posting JHSC meeting minutes on the health and safety board to communicate workplace violence issues and resolution
- completing the Centre for Research Expertise in Occupational Disease's JHSC Effectiveness Assessment e-tool annually

The guide also includes a detailed approach to implementing a successful workplace violence policy. The suggested approach includes recommended procedures for communicating risks to employees, controlling risks of workplace violence, reporting obligations established by the *Occupational Health and Safety Act,* investigation procedures, workplace refusals, domestic violence awareness coma and the prohibition against reprisals.

The guide confirms important reporting obligations placed upon employers by the Ministry of Health as required by provincial quality improvement plans. It notes that workplace violence prevention is identified as a key objective in the quality improvement plan for

hospitals. Hospitals, and long term care homes are required to submit annual reports which address steps taken to meet the quality improvement goals including those in relation 2 addressing the serious issue of workplace violence.

E. ACCOMMODATION IS AS MUCH ABOUT PROCESS AS SUBSTANCE, DIVISIONAL COURT AFFIRMS

Patrick Enright

In the case of *Carter v. Human Rights Tribunal of Ontario*, 2019 ONSC 142, the Divisional Court upheld a finding of discrimination against a physically disabled worker. The complainant, George Carter worked in an auto-manufacturing plant and had been suffering from heart difficulties for a lengthy period of time. His condition eventually culminated in separate cardiac events in 2011 and 2012, which kept him off the job for sometime afterward. Mr. Carter later attempted a return to work in the Spring of 2013 and was medically cleared to return in August of the same year. The question was whether the employer could accommodate him.

While the Employer eventually returned Mr. Carter to work, it took a full year before a permanent position could be found and this despite the fact that, in the interim, part-time and temporary positions were available. Mr. Carter took the position that the failure to reinstate him to part-time or temporary work during this time was a form of discrimination. He also took the position that a failure to provide him with a full-time position during this same time was equally discriminatory.

The Employer, for its part, argued that the part-time and temporary positions should be filled, first, by employees with active WSIB claims (those who had been injured while on the job) before accommodations for long-term disability claimants would be considered. It also argued that no full-time positions were available since these positions had already been filled by employees with greater seniority than Mr. Carter. After all, Mr. Carter had previously worked in a full-time position with the company, and this was the role the company was now trying to return to him.

The Human Rights Tribunal's finding of discrimination was found to be reasonable in these circumstances. Why? The reason was simple. The Employer failed to make *any* effort to place Mr. Carter in a temporary or part-time position while waiting for a full-time position to become available. Although the Tribunal found nothing improper about the Employer's preferencing workers with WSIB claims over Mr. Carter, it found that refusing to offer temporary work for disabled full-time employees in the meantime was in fact discriminatory.

The Tribunal did, however, reject Mr. Carter's position that the Employer should have bumped a more senior employee than himself from a permanent position as a means of accommodation. As the Tribunal stated in its decision, "the duty to accommodate does not include an obligation to displace another employee out of his or her job."

Even where Mr. Carter was victorious, his win likely fell short of what he had hoped for. In an interesting move, the Tribunal only awarded Mr. Carter $5,000 as compensation for injury to dignity, feelings and self respect. He was not awarded any compensation for lost wages. This was justified on the grounds that the Employer had only violated its *procedural* duty to accommodate, as there was no evidence that Mr. Carter could have been placed into a temporary position during the relevant time without the imposition of undue hardship.

The case is, as a result, important for three reasons. First, it stands as a reminder to employers that the duty to accommodate requires more than merely showing that accommodation would lead to undue hardship. Accommodation requires a *process* of, at the very least, making good faith attempts to re-arrange the workforce as a means of accommodating a disabled employee. As the Supreme Court has said "It may be useful...to consider separately, first, the procedure, if any, which was adopted to assess the issue of accommodation and, second, the substantive content of either a more accommodating standard which was offered or alternatively the employer's reasons for not offering any such standard."[9] The case of *Carter* suggests that a failure to do the former will be, and probably should be, fatal to an undue hardship defence under the *Code*.

Second, the Tribunal declined to find the employer's preference for reinstating employees with active WSIB claims over employees on long-term disability to be discriminatory. Doing so is not discrimination, the Tribunal reasoned, because the distinction that was made – long-term disability vs. Active WSIB status – is not based on a *Code*-protected ground.

Finally, the case stands as an important win for seniority rights under collective agreements. The Divisional Court affirmed that removing or displacing more senior employees is not required as a means of accommodating a disabled employee's return to work.

Union representatives should take note of this latter point when trying to balance their responsibilities under a collective agreement with their obligations under the *Code*.

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[9] *British Columbia (Public Service Employee Relations Commission) v. BCGSEU*, [1999] 3 SCR 3.

F. UPCOMING CHANGES TO THE CANADA LABOUR CODE

Rita De Fazio
Student-at-Law

Extensive changes to the *Canada Labour Code* ("the *Code*") concerning matters such as leaves of absence, scheduling and vacation pay are set to come into force on September 1, 2019. The changes are the result of Bill C-63 which received Royal Assent on December 14, 2017 and Bill C-86 which received Royal Assent on December 13, 2018. Employees in federally regulated industries can expect more robust protection under the *Code* following the implementation of these amendments. Some of the most significant amendments will be outlined below.

Scheduling

Both Bill C-86 and Bill C-63 impose requirements on employers with regard to scheduling. These new provisions recognize employees' need for certainty and the understanding that workers may have obligations and responsibilities that they cannot simply abandon at the last minute.

- **96 hours' written notice of scheduling**: Employers must provide a schedule to employees within 96 hours of their first shift on that schedule. Employees may refuse a shift if the employer does not comply with this notice period.

- **24 hours' notice of shift change**: Employers must provide 24 hours' notice to employees if they intend to modify their shifts. An employee may refuse a shift if the employer does not comply with this notice period.

- **Refusal of overtime**: An employee may refuse overtime to deal with the health or education-related needs of a family member if they have taken reasonable steps to deal with that responsibility without refusing overtime.

However, there are exception provisions that limits the rights of workers. Employees are not permitted to refuse a shift or refuse overtime where a situation arises that could not have reasonably be foreseen and which presents a threat:

a) to the life, health or safety of any person;

b) of damage to or loss of property; or

c) of serious interference with the ordinary working of the employer's industrial establishment.

Breaks and Rest Periods

Bill C-86 also provides for new laws regarding breaks and consecutive hours of work. These new provisions recognizes the need for employees to have time to de-stress and recharge, subject to certain emergency circumstances.

- **Breaks**: An employee is entitled to a 30 minute break for every five hours of work. If the employer requires the employee to be at their disposal during the break, the employee must be paid for this time.

- **Rest period**: An employee is entitled to a minimum 8 hour long rest period between shifts.

These provisions are subject to the same exceptions as those regarding scheduling.

Compensation

Following the implementation of Bill C-86, employees will enjoy the following rates of holiday and vacation pay.

- **Holiday Pay**: Employees will be entitled to at least 1/20th of their wages (not including overtime earnings) based on the four-week period immediately before the week in which the holiday occurs.

- **Vacation Pay**: Employees are entitled to vacation pay at the following increased rates:

    - At least 2 weeks vacation (4% vacation pay) after one year of employment

    - At least 3 weeks vacation (6% vacation pay) after five years of employment

    - At least 4 weeks vacation (8% vacation pay) after ten years of employment.

Leaves of Absence

- **Personal Leave**: Employees will be provided with up to five days off per year for illness, injury, health-related family responsibilities, education-related responsibilities for family members under 18, urgent matters, citizenship conferral, or any other prescribed reason. Employees who have worked for a minimum of three months will receive pay for the first three days of leave.

- **Parental Leave**: Previously under the *Code*, employees had to have worked for six months to be eligible for parental leave. This eligibility requirement for maternity and paternity leave has been removed under the amendments.

- **Medical Leave**: The requirement for employees to have worked for three months to be eligible for sick leave has been removed, all employees will be eligible for up to 17 weeks unpaid for personal illness or injury, organ or tissue donation, or medical appointments during work hours. An employer is permitted to ask for a doctor's certification for absences of three days or more.

When the Code Does/Does Not Apply

The provisions of the *Code* will apply regardless of the existence of other laws on the same matters. However, these provisions do not prevent more favourable rights or benefits that may be in place under other laws or regulations.

Similarly, so long as a collective agreement provides benefits that are at least as favourable as those under the new Code provisions regarding:

- minimum wage;
- general holidays;
- annual vacations;
- rates of pay; and
- qualifying periods for benefits,

then the provisions of the amendments focused on those factors will not apply.

Exemptions

Temporary exemptions from the application of certain provisions have been issued for the following industries:

- Road transportation;
- Rail;
- Marine transportation;
- Longshoring;
- Air transportation & Airports;
- Telecommunications;
- Couriers;
- Broadcasting; and
- Grain elevators & Millers.

Various jobs in the above-noted industries are not entitled to the protections of the new provisions regarding:

- Breaks;
- Rest periods;
- Notice of hours of work; and
- Shift changes.

For a detailed breakdown of which job titles are not entitled to the protection of these provisions, please see 802-1-IPG-101 on the Government of Canada's website under Interpretations, Policies and Guidelines.

These exemptions will remain in effect until exemption or modification regulations are issued. There is no guarantee that these same classes of employees will be exempt from the regulations when they are issued.

Key Takeaway

While many employees, especially those who are members of unions may have the benefit of rights that are greater than those provided by the minimum standards legislation of the *Code*, these amendments signal a shift toward the recognition of the importance of labour standards and may even provide some leverage at the bargaining table.

Note: *The information contained in this Newsletter is not intended to constitute legal advice. If you have any questions concerning any particular fact situation, we invite you to contact one of our lawyers.*

This includes acting on behalf of Boards of Trustees of pension plans, health and wellness plans, apprentice plans, etc.

We pride ourselves on providing the highest quality legal representation at reasonable rates.

Our goal is to obtain the best results possible for our clients in a cost-efficient manner.

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