

# EMPLAWYERS' UPDATE

Spring 2025

A Quarterly Newsletter on Labour and  
Employment Law Issues

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### Monetary Limit for Ontario's Small Claims Court Will Increase from \$35,000 to \$50,000

This is a significant development that will have wide-reaching implications for individuals and businesses seeking more affordable and efficient legal recourse.

The jurisdictional ceiling for the Small Claims Court increased from \$10,000 to \$25,000 in 2010. A further increase to \$35,000 in 2020 enhanced access to justice for a broader range of civil disputes. The upcoming increase to \$50,000 continues this trend, allowing more claims to be resolved through a streamlined, cost-effective legal process.

Once the new limit takes effect October 1, 2025, parties with existing Small Claims Court matters under \$35,000 may amend their claims to seek a higher amount up to the new \$50,000 threshold.

### What Does this Mean for Employers?

Employers can expect to see plaintiff employees seeking higher damages in wrongful dismissal cases. Specifically, the higher monetary ceiling is likely to encourage an existing trend in wrongful dismissal cases where plaintiffs make additional claims for general and/or exemplary damages in wrongful dismissal matters, often relating to harassment, discrimination and employer bad faith conduct. Unlike reasonable notice awards, general and exemplary damage awards are not taxed and are therefore more appealing to employee plaintiffs.

Conversely, some plaintiffs may also reduce the quantum of damages they are seeking in a civil action to \$50,000 or less, so that they can access the faster, less complex, and more cost-effective dispute resolution process provided within the Small Claims Court framework.

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## Federal and Ontario Minimum Wage Increase

On April 1, 2025, the federal government increased the federal minimum wage from \$17.30 to \$17.75 per hour. This \$0.45/hour raise reflects a 2.4% increase, aligned with Canada's annual average Consumer Price Index (CPI). This increase will ensure salaries for workers in federally regulated private sectors are keeping pace with year-over-year cost of living increases.

Similarly, the Ontario government has announced that the general minimum wage will increase from \$17.20 to \$17.60 per hour starting October 1, 2025. This \$0.40/hour raise reflects a 2.4% increase, aligned with the Ontario (CPI), and positions Ontario as having one of the highest minimum wages in Canada.

Key Impacts:

- A full-time federal worker earning minimum wage (40 hours/week) will see up to \$936 more per year.
- A full-time worker earning minimum wage (40 hours/week) in Ontario will see up to \$835 more per year.
- Annual increases to minimum wage are tied to CPI to ensure predictability and fairness.

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## New Ontario Employer Obligation to Provide Information to Employees

Effective July 1, 2025, Ontario employers with 25 or more employees will be required to provide the following information in writing to each new hire prior to their first day of work, or, if that is not feasible, as soon as reasonably possible thereafter:

- The employer's legal name, along with any operating or business name if different;
- The employer's contact information, including address, telephone number, and the name(s) of one or more contact persons;
- A general description of the location where the employee is initially expected to perform work;
- The employee's starting wage rate (hourly, salary, or commission, as applicable);
- The pay period and pay day as established under subsection 11(1) of the *Employment Standards Act (ESA)*;
- A general description of the employee's initial anticipated hours of work.

Employers must give thought to integrating these requirements into employment agreements or offer letters.

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## New Occupational Health and Safety Act Requirements: Clean Washroom Facilities

Effective July 1, 2025: A constructor or employer is required to ensure that any washroom facilities provided for worker use are maintained in a clean and sanitary condition. The constructor or employer is also required to keep, maintain and make available records of the cleaning of washroom facilities.

Effective January 1, 2026: Cleaning records must be maintained that document the date and time of the two most recent cleanings for each washroom facility. These records may either be (1) physically posted in a conspicuous location near the washroom facilities, or (2) made available electronically, provided workers receive clear instructions on how and where to access this information.

Applying only to the construction industry, as of January 1, 2026, a constructor must record the date of all cleanings for the past six months or the duration of the project, whichever is shorter.

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## Employment Contract Compliance: Implications of *Baker v. Van Dolders* for Ontario's Employers

Ontario employers should take note of the recent decision in *Baker v. Van Dolders Home Team Inc.*, 2025 ONSC 952, which underscores the importance of carefully drafting termination clauses in employment contracts. This ruling from the Ontario Superior Court of Justice, released on February 11, 2025, highlights the high legal standards to which employers are held and the risks of non-compliance with Ontario's *Employment Standards Act (ESA)*.

The case arose from a wrongful dismissal claim brought by the plaintiff, Frederick Baker, after his employment was terminated by Van Dolders Home Team Inc. on May 24, 2023. The matter was decided on summary judgment based on affidavit evidence and written submissions, with supplemental oral arguments requested by the Court.

At issue were both the "without cause" and "with cause" termination provisions in the employment contract—both of which the Court ultimately found to be unenforceable. The contract's "without cause" clause sought to limit termination entitlements to *ESA* minimums, while the "with cause" clause permitted termination without notice or compensation for reasons including poor performance and dishonesty.

The Court's analysis was guided by the Ontario Court of Appeal's decision in *Waksdale v. Swegon North America* (2020), which established that if any part of a termination provision



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is unenforceable, the entire provision must be struck down. In this case, the “with cause” clause was found to contravene the *ESA*, as it allowed termination without compensation for conduct, such as poor performance and dishonesty, that does not meet the statutory threshold of “wilful misconduct” under *ESA Regulation 288/01*. The Court noted that an employee could reasonably believe they had no statutory rights if terminated under such a clause, rendering it invalid.

The “without cause” clause was also challenged based on language granting the employer the right to terminate “at any time,” which the plaintiff argued misrepresents the *ESA*. The Court agreed, referencing the 2024 decision in *Dufault v. The Corporation of the Township of Ignace*, and further held that even general statements of *ESA* compliance cannot save a clause that fundamentally misstates statutory protections.

Consequently, both termination provisions were struck down, and the employer’s summary judgment motion was dismissed. The Court ordered a further hearing to assess damages based on common law notice—potentially a much higher liability than the *ESA* minimums.

### Key Takeaways for Employers

This decision serves as a crucial reminder for Ontario employers to ensure their employment contracts are fully compliant with the *ESA* and recent case law. Employers should avoid:

- Language suggesting the right to terminate “at any time”;
- “With cause” clauses that list grounds for termination without aligning them with the *ESA*’s statutory thresholds;
- Reliance on general *ESA* compliance statements to cure otherwise unenforceable clauses.

Failure to address these issues can expose employers to significant financial risk. It is strongly recommended that employers engage legal counsel to review and update employment agreements proactively. As *Baker* makes clear, a single flawed provision can nullify termination protections entirely and result in costly damages at common law.

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## Ontario Court Affirms Right to Procedural Fairness in Volunteer Dismissal by Not-For-Profit

In a notable decision on September 27, 2024, the Ontario Superior Court affirmed that volunteers of not-for-profit organizations are entitled to procedural fairness when dismissed. The ruling in *Hannan v. Scouts Canada*, 2024 ONSC 5361, found that Scouts Canada breached its own policies by failing to follow established procedures in the non-renewal of a long-serving volunteer.

The applicant, an 86-year-old man, had volunteered with Scouts Canada since 1958. In November 2023, he received a letter stating that his volunteer role would not be renewed due to “safety concerns and resistance to program adaptation.” This came without clear prior warnings or performance discussions, contrary to the organization’s established disciplinary procedures.

Scouts Canada’s internal policies require that volunteer reappointments be based on satisfactory performance and adherence to the Scouts Canada Code of Conduct. The organization’s Discipline and Performance Management Procedure mandates documented issues, coaching, and warnings before any dismissal. The applicant argued that none of these steps were taken, rendering the decision procedurally unfair.

In response, Scouts Canada claimed that annual volunteer renewals fell within the discretion of the Group Commissioner and were not subject to the same procedural safeguards as disciplinary actions. It also contended that the applicant's membership was not terminated, as he could still apply for other roles. However, the applicant asserted that membership was contingent upon holding an active volunteer position, and his removal effectively ended his affiliation.

### **The Court's Decision**

The Court found that the relationship between Scouts Canada and its volunteers was contractual in nature, grounded in the organization's corporate structure and its binding internal policies. Volunteers, it held, are entitled to expect fair and consistent application of these policies.

The Court emphasized that Scouts Canada's procedural promises were enforceable—not merely aspirational—and that the organization had a duty to follow its own rules. Accordingly, the Court found that the applicant was denied procedural fairness when his role was not renewed without due process.

While the Court declined to reinstate the applicant—citing the seasonal nature of the position and the general unavailability of specific performance in such cases—it did issue a declaration affirming his right to procedural fairness. It also ordered Scouts Canada to conduct future applications from the applicant in good faith and awarded him legal costs.

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### **Ontario Court Awards over \$60,000 to Employee Fired after Requesting Remote Work to Protect Vulnerable Spouse**

An Ontario woman who was dismissed after requesting to work from home during the COVID-19 pandemic to protect her diabetic husband has been awarded more than \$60,000 by the Ontario Superior Court of Justice.

The plaintiff successfully brought an action against her former employer, Idealogic PDS Inc., for wrongful dismissal and discrimination under the Ontario *Human Rights Code*. The decision followed a default judgment granted due to the employer's failure to participate.

The plaintiff, a 13-year employee of Idealogic PDS Inc., was terminated in January 2021 after asking to work remotely during a government-imposed stay-at-home order. Her job was primarily computer-based, and she assured the employer that her responsibilities could be effectively performed from home.

The request stemmed from concern for her husband, who has diabetes, which is a condition recognized as a disability under the Ontario *Human Rights Code*. The company refused her request and threatened dismissal if she did not attend work in person. The employer proceeded to terminate the plaintiff on the spot without notice or severance.

### **The Court's Decision**

The Court ruled that the termination constituted wrongful dismissal as it determined that the plaintiff did not engage in misconduct, and that the employer had no just cause to terminate her. She was awarded 14 months' pay in lieu of notice, amounting to \$36,979.02.

The Court further ruled that the employer violated the Ontario *Human Rights Code* by dismissing the plaintiff due to her association with her disabled spouse. Specifically, the employer violated section 12 of the Ontario *Human Rights Code*, which protects individuals from discrimination based on their relationships with people with disabilities. She was awarded \$15,000 in general damages for the emotional harm caused by the discriminatory termination, including humiliation and loss of dignity.

The Court also awarded the following:

- \$3,000 for aggravated damages. The Court noted that the employer acted in bad faith, describing its conduct as "motivated by malice and high-handed," though the human rights award had already addressed much of the emotional harm.
- \$1,000 for "Inconvenience" damages. The employer incorrectly recorded on the plaintiff's Record of Employment that she had quit, delaying her Employment Insurance benefits by 10 months. For the resulting financial stress and inconvenience, the court awarded \$1,000 in further damages.
- \$6,494.59 in legal costs, including HST and disbursements.

In total, the plaintiff was awarded \$62,473.61 in damages and costs.

### **Key Takeaways for Employers**

This decision reinforces the legal obligation of employers to consider accommodations for employees connected to individuals with disabilities, particularly during public health crises. It also highlights the importance of employers taking the appropriate steps to defend against claims advanced by former employees in a thorough and timely manner. The Court does not look favourably upon defendants who refuse to participate in a proceeding.