Publisher’s Note

An Update has Arrived in Your Library for:

TRADE UNION LAW IN CANADA
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A resource designed around the concerns of labour unions, TRADE UNION LAW IN CANADA comprehensively explains the various strands of the law that affect the internal affairs of trade unions. While examining the relationships between unions and their members, TRADE UNION LAW IN CANADA provides analysis of the legal character of unions, including their legal status, security, and politics, as well as a review of union structures, constitutions, and the election of union leaders. Matters of internal discipline of union members and the duty imposed by law on unions to provide fair representation are examined and clearly explained.

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What's New in This Update:

This release features updates to the caselaw and commentary in Chapter 1 (The Legal Status of Trade Unions), 2 (Union Security), 3 (Unions, Politics and Law), and 9 (Discipline and Expulsion from Union Membership).

Highlights

- **THE LEGAL STATUS OF TRADE UNIONS—MODERN LAW OF UNION STATUS—SPECIFIC ISSUES—VICARIOUS LIABILITY**—In *DHRW Electrical Projects v. IBEW, Local 2085*, the Manitoba Court of Queen's Bench relied on the Supreme Court of Canada's decision in *Fullowka v. Royal Oak Ventures* while upholding an arbitrator's decision that a union, in the circumstances of that decision, should not be held vicariously liable to an employer for deficient work done by union members supplied through the union's hiring hall. The court noted, however, that the arbitrator had not found that a union could “never” be liable for deficient work, and that the arbitrator carefully reviewed the evidence relevant to various factors under *Fullowka*, including: “the relationship between [the employer] and the Union; responsibility for the supervision, management and control of the work alleged to have been deficiently performed; and responsibility for the hiring, discipline and discharge of workers.”

- **THE LEGAL STATUS OF TRADE UNIONS—MODERN LAW OF UNION STATUS—SPECIFIC ISSUES—LIABILITY OF A NATIONAL OR PARENT UNION**—In *Robson v. University of New Brunswick*, the complainant administrative assistant requested a waiver of a collective agreement provision requiring that she retire after turning 65; the university denied her request for a waiver. The complainant filed a human rights complaint against the university employer—and her local and national union—alleging discrimination in employment on the basis of age. The national union brought a preliminary motion seeking that it be removed as a respondent to the complaint. The New Brunswick Labour and Employment Board granted the national union's motion, confirming that a union will not be held vicariously liable for a local's actions in collective bargaining and its refusal to file a grievance challenging a mandatory retirement age—even where a national union employee advised the local union on bargaining and the filing of a grievance.

- **UNIONS, POLITICS AND LAW—UNION POLITICAL ACTIVITIES—RESTRICTIONS ON ELECTION-RELATED SPENDING—THIRD-PARTY ADVERTISING**
DURING ELECTIONS—With this release, the authors have updated the discussion of the litigation in the Working Families Coalition (Canada) Inc. v. Ontario (Attorney General) litigation over Ontario’s changes to third-party election advertising rules. In March 2023, the Court of Appeal for Ontario affirmed that the Ontario legislature had validly invoked section 33 of the Charter, so that there could be no review of whether the limits on advertising violated the guarantee of freedom of expression in section 2(b). However, it disagreed on whether there was an infringement of the right to vote under section 3. The Court majority concluded that the extension by six months of limits on political advertising was not narrowly tailored given earlier findings that a six-month, $600,000 limit was appropriate and effective, and given the absence of any explanation from the government for the extended restriction. Nor was the majority satisfied that the evidence showed that third parties would have the capacity, within the limits imposed, to mount a moderate informational campaign. Having concluded that there was a violation of section 3, the majority found that the violation was not saved by section 1 of the Charter and declared the provision to of no force or effect (which declaration was suspended for 12 months). The Ontario government has announced its intention to appeal the decision to the Supreme Court of Canada.

- DISCIPLINE AND EXPULSION FROM UNION MEMBERSHIP—STATUTORY BASES FOR INTERVENTION—SUBSTANTIVE FAIRNESS IN CONTEXT—FINES—Does British Columbia’s Civil Resolution Tribunal have jurisdiction to order the payment of disciplinary fines imposed on a union? In Grain Workers Union, Local 333 v. Martin, the union had imposed disciplinary fines totaling $1,663.60 on a member, which fines remained unpaid. The union requested that the Tribunal enforce the fines as a “debt”. The Tribunal refused to resolve the union’s claims for lack of jurisdiction on the bases that: a union’s disciplinary fine is not a “debt” because the union’s constitution did not specify an amount owed; and a union’s disciplinary fine does not constitute damages because it did not relate to a loss suffered by the union.

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