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<p>LABOUR RELATIONS BOARD REMEDIES IN CANADA, 2nd ed. Jeffrey Andrew Release No. 2, November 2024</p>
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What’s New in this Update:

This release includes updates to Chapter 1 – Procedure, Chapter 3 – Deferral to Other Tribunals, Chapter 5 – Rectification, Chapter 7 – Cease and Desist, Chapter 9 – Compensation, Chapter 12 – Certification and Termination of Bargaining Rights, Chapter 13 – Bargaining Order, Chapter 15 – Duty of Fair Representation – Processing of Grievance and Other Union Business, Chapter 16 – Discretion to Grant or Deny Remedy and Chapter 23 – Interim Relief.

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Highlights

- **Chapter 1 – I. Procedure in General – § 1:4 Expedited Board Hearings** – Although it does not vary the procedure significantly, the British Columbia Statute [s. 5(2)] provides for an expedited hearing of a complaint that an employee has been dismissed contrary to the statute if there is no applicable agreement. Boards may expedite other proceedings as a matter of board practice. The British Columbia board may bifurcate those parts of a complaint properly brought under s. 5(2) from those parts which are not: *Starbucks Coffee Canada, Inc. (Re)*, 2024 BCLRB 60 (B.C. L.R.B.).
- **Chapter 3 – III. Deferral to Arbitration – § 3:7 General Policies** – Boards may reserve jurisdiction to deal with statutory questions that are not adequately addressed by the arbitrator and may not find such an arbitral awards to be determinative. In addition, the Alberta board has said it may also defer to arbitration unconditionally and dismiss the complaint: *The Northern Alberta Institute of Technology Academic Staff Association v. The Northern Alberta Institute of Technology (Board of Governors)*, 2024 ALRB 10, 2024 CarswellAlta 199 (Alta. L.R.B.).
- **Chapter 7 – I. Review of the Statutes; Nature of the Remedial Power; Threatened or Continuing Violation – § 7:2. Nature of the Remedial Power** – The British Columbia board has ruled that it is not outside its jurisdiction and unconstitutional for it to order a British Columbia employer to cease and desist from using its workers located outside the province to unlawfully act as replacement workers during a strike: *Gate Gourmet Canada Inc. (Re)*, 2023 BCLRB 128 (B.C. L.R.B.).
- **Chapter 9 – B. Costs – § 9:39 – Duty of Fair Representation Cases** – The costs charged to the union may be the subject of review by a board when their reasonableness is disputed: *Hammond and Unifor, Re*, 2023 CCRI 1102, 2023 CIRB 1102, 2023 CarswellNat 6673, 2023 CarswellNat 6674 (C.I.R.B.).
- **Chapter 15 – II. Orders to Process a Grievance – § 15:10 – Grounds for Denying the Remedy** – The Alberta board reconsidered an order to refer a grievance to arbitration, substituting a right of the union to instead accept a reasonable settlement offer made by the employer: *Retail, Health Care & Service Employees Union, Christian Labour Assn. of Canada, Local 301*, [2024] A.L.R.B.D. No. 20.
- **Chapter 16 – Discretion to Grant Or Deny Remedy – § 16:2 – Basis for Exercising Discretion** – The Ontario board

has said that the primary consideration when exercising its discretion to remedy an unfair labour practice is the nature and severity of violation: *Mamon v. UWOFA*, 2023 CarswellOnt 18429 (Ont. L.R.B.).