

Publisher’s Note

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<p>WRONGFUL DISMISSAL David Harris, B.A., LL.B. Release No. 7, July 2025</p>

This four-volume national work provides a comprehensive treatment on the law of wrongful dismissal in Canada. Coverage includes: the contract of employment and employee status; types of dismissal and the “just cause” defence; damages and the duty to mitigate; related actions including actions tort, injunctive relief, and statutory actions; employee protections under the *Canada Labour Code*, tax considerations; the impact of statutes on the assessment of damages; practical considerations; charts of notice awards; and relevant legislation and concordance tables.

What’s New in this Update

This release includes several updates to Chapter 12. Tax Considerations, and 10 updated legal memos in Appendix IF. Issues in Focus.

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Highlights

- **Chapter 12 — Tax Considerations — II. Taxability of Payments to Employee — § 12:2. “Retiring allowance”** — The fact an amount is not determined and paid until many years after the employee ceases employment does not mean it is not a retiring allowance. CRA Views interpretation letter 2003-0028025 (October 30, 2003) considers an example of an amount paid eight years after an individual left employment, and considers the amount to be a retiring allowance; and letter 2023-0961541E5 (June 26, 2024) specifically states: “there is no provision in the Act which prohibits the payment of such an amount in installments or requires it be paid within a certain period of time after the retirement or the loss of employment.” In *Matte v. R.*, 2025 TCC 16, Matte and his former employer settled their litigation, and the settlement included forgiveness of interest-free loans the employer had advanced to Matte while he was employed. The loan forgiveness was held to be taxable as employment income pursuant to subsection 6(15) of the Act.
- **Appendix IF. Issues in Focus** — The following Issues in Focus legal memos were updated in this release:
 - § IF:2. If an Ontario corporation becomes insolvent, can a director of the corporation be held personally liable for an employee’s unpaid wages?
 - § IF:3. What reasonable expectation of privacy do employees have in their workplace computers?
 - § IF:5. When will a Court or Human Rights Tribunal decline to enforce a release executed by a dismissed employee?
 - § IF:6. Are pension benefits deductible from wrongful dismissal damages?
 - § IF:7. How have the courts determined appropriate notice periods of pregnant employees who have been wrongfully dismissed?
 - § IF:8. Does an employee’s assault on a fellow employee during the course of employment constitute cause for his or her summary dismissal?
 - § IF:10. When have the courts found that a poisoned work environment amounts to constructive dismissal?
 - § IF:13. When does an employer have a duty to investigate alleged harassment or discrimination and what are the potential consequences for failing to conduct an adequate investigation?