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CANADIAN EMPLOYMENT LAW Stacey Reginald Ball Release No. 5, December 2024

Canadian Employment Law is a one-stop reference that provides a thorough survey of the law with analysis of developing trends. Canadian Employment Law has been cited by the Supreme Court of Canada, and in superior courts in every province in Canada. With methodically organized chapters, Canadian Employment Law can be counted on to provide detailed analysis of the facts and law of thousands of relevant cases. The subject-matter is wide-ranging and addresses topics including wrongful dismissal, fiduciary obligations, tort law and vicarious liability, remedies, constitutional issues, occupational health and safety, employment contracts, duty of good faith and human rights.

What's New in this Update:

This release updates the case law and commentary in Chapter 33 (Prosecution) and Chapter 35 (Human Rights).

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Case Highlights

- **Part 8. Occupational Health and Safety—Chapter 33—III. Sentencing—§ 33:25. Trends—Fines**—Six workers were fatally injured and one was critically injured after an explosion involving diesel fuel. The employer was found to have failed to take every precaution reasonable in the circumstances for the protection of workers, contrary to section 25(2)(h) of the *Occupational Health and Safety Act*. The company also failed to provide adequate information, instruction and supervision to workers to protect their health and safety, contrary to section 25(2)(a) of the Act. The director of the company failed to take all reasonable care to ensure that the corporation complied with section 25(2)(h) of the Act, contrary to section 32 of the Act. The workers were awarded \$600,000. The director was fined additional \$80,000, plus 25% victim fine surcharge: *Eastway Tank, Pump and Meter Limited* (April 5, 2024), Justice Mitch Hoffman (Ontario Court of Justice in Ottawa).
- **Part 9. Human Rights—Chapter 35—IV. Duty to Accommodate Short of Undue Hardship—§ 35:42. Safety considerations**—The actions of an employer in not accommodating a worker’s disability due to safety reasons in a safety sensitive job have been held not to be discriminatory: *West v. Master Welding Services Ltd.*, 2024 HRTO 683 (Ont. Human Rights Trib.). However, in *Houle v. Transports Canada*, 2024 CHRT 22 (Can. Human Rights Trib.), a Federal Tribunal found that Transports Canada had not fulfilled its duty of performing an individual assessment of an individual by refusing an individual with schizophrenia a Marine Certificate without limitations. The Tribunal commented that Transports Canada did not assess the individual according to his personal characteristics instead of the presumed group characteristics found in a Canadian guide and since this assessment was not performed, Transports Canada had failed to establish that it would have incurred undue hardship in not applying its standard to the individual, given his stable condition over the past 30 years.

ProView Developments

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- The opening page is now the title page of the book as you would see in the print work
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- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
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