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### **CANADIAN LABOUR ARBITRATION, FIFTH EDITION**

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**Release No. 6, September 2022**

### **Publisher's Special Release Note 2021**

The pages in this work were reissued in October 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the October 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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## What's New in this Update

This release includes new cases and commentary in Chapter 1 “Arbitration of Grievances in Context”, Chapter 2 Jurisdiction of the Arbitrator, “Chapter 3 “The Arbitration Process” and Chapter 4 “The Collective Agreement”.

## Highlights

- There are a number of cases included in this update addressing COVID-19 vaccination policies. In *Elexicon Energy Inc.* (2022), 336 L.A.C. (4th) 337 (Mitchell), the arbitrator found a mandatory vaccination rule to be reasonable. Similarly, in *Maple Leaf Sports and Entertainment* (2022), 334 L.A.C. (4th) 247 (Jesin), the arbitrator concluded that a vaccination policy requiring employees to be vaccinated in order to perform work and requiring disclosure of vaccination status to be reasonable. In *Bunge Hamilton Canada* (2022), 334 L.A.C. (4th) 225 (Herman), the arbitrator concluded that a vaccine policy requiring employees to disclose their vaccine status failing which they would be prohibited from entering the workplace and placed on unpaid leave up to potential termination of employment was reasonable. In *CKF Inc.* (2022), 336 L.A.C. (4th) 297 (Saunders), the arbitrator concluded that a policy requiring unvaccinated employees to be tested for COVID-19 was reasonable. Conversely, in *Chartwell Housing Reit* (2022), 336 L.A.C. (4th) 223 (Misra), the arbitrator concluded that including the possibility of discharge for employees who failed to comply with the mandatory vaccine policy was unreasonable.
- In *Ornge Air* (2021), 334 L.A.C. (4th) 333 (Misra), the arbitrator concluded that a zero tolerance policy for employees who were prescribed medical marijuana that prohibited those employees from working in safety sensitive positions was unreasonable and discriminatory.