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THE LAW OF DISMISSAL IN CANADA, THIRD EDITION

Howard A. Levitt

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What's New in this Update:

This release includes updates to case law and commentary in Chapters 8 (Wrongful Dismissal: Period of Notice), 9 (Awarding Damages) and 10 (Mitigation).

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Highlights

- **Awarding Damages — Sickness Benefits —** *Korpan Tractor and Parts (Parriwi Management Inc.) v. Denton*, 2026 SKCA 44 (Sask. C.A.) — affirmed on appeal — "A 24-month period of notice falls within the acceptable range"; affirmed re: declining "to make any adjustment for [the plaintiff's/respondent's] $25,000 settlement with Empire Life, which related to his claim for long-term disability benefits"; "ample evidence . . . [the plaintiff/respondent] was unable to work after July 15, 2020, because of his serious and significant mental and physical health issues"; "Its abandonment argument is little more than a backdoor attempt to attack the judge's findings of fact, and the conclusion he drew from these findings regarding whether [the plaintiff/respondent] had resigned or abandoned his employment."
- **Mitigation — General — Reasonableness — Test of Reasonableness — Obligation to Accept Reinstatement or Demotion —** *Gugulyn v. Alberta*, 2026 ABCA 68 (Alta. C.A.) — affirmed on appeal — "the respondent [cross-appellant] failed to fully mitigate his damages . . . the finding that a reasonable person in [the respondent's/cross-appellant's] situation would not have accepted [the appellant's/cross-respondent's] offer of re-employment does not disclose a reviewable error [however, it] was open to the trial judge to draw the factual inference that he would have been successful within 17 months given his qualifications and skills and the job descriptions in the postings that were put in evidence."

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