



Feb. 13
2014

Receipt of Pension Benefits Does Not Result in Reduction of Wrongful Dismissal Damages

James Heeneey will be speaking at the 3rd Discipline and Employment Termination course

3rd Discipline and Employment Termination

Generally speaking, the purpose of contract damages – such as those which compensate an employee for wrongful dismissal – is to put the employee in the same financial position that he or she would have been in had the breach not occurred. However, the majority of the Supreme Court of Canada recently held that a former employee’s receipt of pension benefits during the reasonable notice period should not result in a reduction of the wrongful dismissal damages owed by the employer.

Mr. Waterman, who was 65 years old, had been employed by IBM Canada for approximately 42 years when his employment was terminated. Following his termination, Mr. Waterman began to collect the full pension to which he was entitled through IBM’s defined benefit pension plan. When Mr. Waterman brought a claim against IBM for pay in lieu of reasonable notice of his termination, IBM argued that the pension benefits received by Mr. Waterman during the notice period should be deducted from the wrongful dismissal damages owing.

May,
2014

James Heeneey will be speaking at the Federated Press on a topic in employment law

Federated Press

The trial judge, British Columbia Court of Appeal and ultimately the majority of the Supreme Court disagreed with IBM. The majority of the Supreme Court offered the following reasoning:

employee pension payments, including payments from a defined benefits plan as in this case, are a type of benefit that should generally not reduce the damages otherwise payable for wrongful dismissal. Both the nature of the benefit and the intention of the parties support this conclusion. Pension benefits are a form of deferred compensation for the employee’s service and constitute a type of retirement savings. They are not intended to be an indemnity for wage loss due to unemployment. The parties could not have intended that the employee’s retirement savings would be used to subsidize his or her wrongful dismissal.

Feb. 19,
2014

Sarah Vokey will be speaking on "Making a Finding and Preparing an Investigation Report" at the Osgoode Certificate in Labour Law



It is important to note that, in this case, both Mr. Waterman’s contract and the pension plan document were silent on whether the receipt of pension benefits would result in a reduction to any wrongful dismissal damages owed to the employee by the employer. The Supreme Court’s decision seems to suggest that an employer could include language in the contract or pension document to specifically allow the deduction of pension funds received during the notice period from wrongful dismissal damages; however, the guidelines are not clear. Employers wishing to explore this option would be well advised to seek advice from legal counsel.

