



Feb. 13
2014

Ontario Human Rights Commission Releases Policy on Preventing Discrimination Based on Mental Health Disabilities and Addictions

James Heeneey spoke at the 3rd Discipline and Employment Termination course

3rd Discipline and Employment Termination

We often advise employer clients on dealing with and accommodating mental health disabilities and addictions in the workplace. The Ontario Human Rights Commission recently released the Policy on Preventing Discrimination Based on Mental Health Disabilities and Addictions (the "Policy") which provides further guidance on these issues. Among other things, the Policy addresses:

- Employees' rights under the *Human Rights Code* (the "Code");
- Employees' rights to be free from reprisal for exercising rights under the Code;
- Different forms of discrimination;
- Principles of accommodation and how the duty to accommodate applies specifically to people with mental health or addiction disabilities, including those disabilities that are invisible;
- Duties and responsibilities of the employer in the accommodation process. For example, the duty to inquire about accommodation needs;
- The considerations in assessing whether the test for undue hardship has been met and other limits on the duty to accommodate;
- How to balance the rights of an employee with a mental health issue or addiction with the rights of others where these rights may conflict;
- How consent and capacity issues relate to an employee's rights under the Code; and
- An employer's responsibility to prevent and eliminate discrimination in the workplace and how the employer can take steps to create environments that are inclusive and free from discrimination.

May,
2014

James Heeneey spoke at the Federated Press on a topic in employment law

Federated Press

The Policy can be found online at:

http://www.ohrc.on.ca/sites/default/files/Policy%20on%20Preventing%20discrimination%20based%20on%20mental%20health%20disabilities%20and%20addictions_ENGLISH_accessible.pdf

Sept. 24,
2014

Employment Standards Act, 2000 – An Update on Statutory Severance Pay

Sarah Vokey will be speaking at Humber College's Human Resources Faculty on investigations



It has long been understood that, in calculating whether statutory severance pay is owed upon termination, the amount of an employer's annual payroll in Ontario, more specifically, whether the payroll is at least 2.5 million dollars, has been a deciding factor. However, in the recent decision of *Paquette v. Quadraspec Inc.*, the court has provided reason to reconsider this approach.

In *Paquette*, the court looked at the employer's total payroll within Canada in order to determine whether severance pay was owed in the circumstances. The Court determined that the entire Canadian payroll (of approximately 3 million dollars) rather than just the Ontario payroll (of approximately 1.5 million dollars) should be considered and that, on that basis, the employer was liable to pay severance pay.

We expect that the *Paquette* decision will be appealed and we will continue to monitor and update on the progress of this decision. However, if the decision is upheld, it will have substantial implications for employers with employees outside of Ontario and perhaps even organizations with employees in the United States.

