



CANADA - UNITED KINGDOM Chamber of Commerce Over 92 YEARS OF NETWORKING

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Employment Law: Human Rights Damages Award In Ontario

In *Wilson v. Solis Mexican Foods Inc.* ("Wilson"), the Ontario Superior Court of Justice made the first award of damages pursuant to the Ontario Human Rights Code in a wrongful dismissal action. At trial, the Ontario Superior Court of Justice determined that the employee has been wrongfully dismissed and awarded the employee 3 months notice. Additionally, the Ontario Superior Court of Justice found that the termination was in breach of the Ontario Human Rights Code.

Specifically, it was determined by the Court that based on the evidence submitted at Trial, the employee's ongoing back issue was a significant factor in the decision to terminate the employee's employment and accordingly awarded the employee \$20,000 as a result.

Impact of Decision on Employers

While Ontario Courts have been permitted to award damages for breach of the Ontario Human Rights Code in Employment Law matters since the amendments were made to the legislation in 2008, the above decision is the first time that such an awarded has been made. As a result, the above decision should act as a stark reminder to employers that such damages can be awarded in a wrongful dismissal matter and that guidance from experienced Employment Lawyers should be obtained prior to terminating an employee.

Impact of Decision on Employees

The above decision should also act as a reminder to employees that should they

believe their termination is not only wrongful, but also in breach of the Ontario Human Rights Code, a single action may be able to be initiated in the Ontario Superior Court of Justice to pursue all claimed damages instead of proceeding with two separate actions and incurring additional costs. Therefore, terminated employees should always consult with an experienced Employment Lawyer to ensure that their termination is properly analysed, and that all appropriate damages are sought.

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