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**DENTONS**

**WEBINAR SERIES**  
LEGAL UPDATES  
FOR CANADIAN EMPLOYERS

# **From charges to checklists: Managing complex workplace scenarios**

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Grow | Protect | Operate | Finance



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**Your employee has been  
charged with a crime – now  
what?**

# What potential implications do criminal charges have for the workplace?

- Attendance
- Reputational risks
- Health and safety obligations in the workplace
- Ability to perform role (i.e. loss of driver's license)
- Bail conditions
- Employer's own workplace investigation

# Can off-duty misconduct amount to just cause?

*Kelly v Linamar Corporation, 2005 CanLII 42487*

- Mid-level manager arrested and charged with child pornography (later pled guilty to possession of child pornography following a broad police investigation)
- The employer, known for community involvement and youth programs, terminated the employee for cause within a few days of the charge.
- Court upheld dismissal, citing the employee's supervisory role, public-facing duties, and the potential harm to the employer's reputation.
- **Each case is fact-specific; not every case will automatically amount to just cause.**

# Can off-duty misconduct amount to just cause?

*Merritt v Tigercat Industries, 2016 ONSC 1214*

- Employee dismissed after arrest for alleged sexual assault of minors; concerns raised by colleague, no investigation conducted by employer.
- Employee commenced a wrongful dismissal action.
- Court found no evidence of reputational damage, noted that employee was a general labourer and could have moved locations if a colleague had an issue.
- ***For off-duty conduct to constitute just cause for dismissal, there must be a justifiable connection between the misconduct and the employer or the nature of employment.***



# What if the criminal charges relate to conduct at work?

*Murphy v Canadian Tire*, 1991 CarswellOnt 935, [1991] OJ No 2103

- Just cause is easier to establish when charges stem from workplace conduct.
- Employee was charged with fraud and theft-related offences for allegedly allowing customers to leave without properly paying for merchandise but was granted an acquittal that same summer.
- Since the charge occurred during employment, the court upheld the employer's decision to terminate for just cause.

# Record of Offences Under the Code

Ontario *Human Rights Code*, RSO 1990, c H19

- Section 10(1) of the *Human Rights Code* defines “record of offences” to mean a conviction for:
  - (a) an offence in respect of which a pardon has been granted under the *Criminal Records Act* (Canada) and has not been revoked, or
  - (b) an offence in respect of any provincial enactment.

**Note:** Being charged with a crime is not a protected ground.





# **Terminating an employee returning from medical leave**

# **Amies v. Lethbridge Family Services**

## **2025 AHRC 19 - Background**

- Complainant was the subject of three workplace investigations, left on medical leave prior the completion of the investigations, and had an existing disciplinary record.
- Complainant was terminated the day she returned from medical leave.
- Employer stated that the complainant's employment was terminated for just cause.
- There was dispute between the parties on whether the decision to terminate occurred before or after the complainant went on medical leave.

# **Amies v. Lethbridge Family Services**

## 2025 AHRC 19 – What really matters

- Timing of the decision to terminate the complainant?
- Timing of the termination of the complainant?
- Rebuttable inferences that should be supported by written documentation.
- Since the complainant's medical leave didn't factor in the employer's decision:
  - 1. No genuine issue that needs to be resolved.
  - 2. No chance of any success at a hearing.
  - 3. The allegations were based on assumptions or speculation.
  - 4. The evidence did not take the allegations out of the realm of conjecture.





# **Hiring young workers: What employers need to know**

# British Columbia

| Key Legislation   | Summary  | Exemptions/Considerations   |
|---|--|---|
| <b>Employment Standards Act</b> <ul style="list-style-type: none"> <li>Section 9</li> </ul> <b>Employment Standards Regulations</b> <ul style="list-style-type: none"> <li>Part 7.1, Division 0.1, 1, 4 and 5</li> </ul> <b>Occupational Health and Safety Regulation</b> <ul style="list-style-type: none"> <li>Sections 3.22 – 3.25</li> </ul> <b>Workers' Compensation Act</b> <ul style="list-style-type: none"> <li>Sections 121 and 231(a)</li> </ul> | <b>Under 14</b> <ul style="list-style-type: none"> <li>Requires permission from the Director of Employment Standards</li> <li>No work during school hours, no more than 4 hours on a school day, 7 hours on a non-school day, 20 hours in a week with 5 school days, or 35 hours in any week (unless permitted by the Director)</li> <li>Supervision of someone at least 19 years old</li> </ul> <b>14</b> <ul style="list-style-type: none"> <li>Light work with parental or guardian consent</li> <li>Any work with permission from the Director of Employment Standards</li> <li>No work during school hours, no more than 4 hours on a school day, 7 hours on a non-school day, 20 hours in a week with 5 school days, or 35 hours in any week (unless permitted by the Director)</li> <li>Supervision of someone at least 19 years old</li> </ul> <b>15</b> <ul style="list-style-type: none"> <li>Light work with parental or guardian consent</li> <li>Any work with permission from the Director of Employment Standards</li> <li>Standards rules for hours of work apply</li> </ul> <b>16 and Older</b> <ul style="list-style-type: none"> <li>No requirement for permission or consent</li> <li>Restrictions against hazardous work</li> <li>Standard rules for hours of work apply</li> </ul> | <b>Industry Exemptions</b> <ul style="list-style-type: none"> <li>Sitters and home care workers</li> <li>Recorded entertainment</li> <li>Live entertainment</li> <li>Camp assistants, assistant coaches, referees or umpires (performing light work)</li> <li>Work for a family business (performing light work)</li> <li>Work for a board or authority at their enrolled secondary school</li> <li>Work study, work experience, or occupational study class under the supervision of a board or authority</li> </ul> |

# Alberta

| Key Legislation  | Summary   | Exemptions/Considerations  |
|--|---|--|
| <b>Employment Standards Code</b> <ul style="list-style-type: none"> <li>Sections 65 - 66</li> </ul><br><b>Employment Standards Regulation</b> <ul style="list-style-type: none"> <li>Sections 9(1)(a.1) and 51-54</li> </ul><br><b>Occupational Health and Safety Code</b> | <b>12 and Under</b> <ul style="list-style-type: none"> <li>Artistic endeavors only (requires permit from the Director)</li> </ul><br><b>13 and 14 (Adolescents)</b> <ul style="list-style-type: none"> <li>Written consent from parent or guardian, and approval of the Director of Employment Standards</li> <li>No Director approval is required if the adolescent is employed outside of school hours as a delivery person, clerk, food service employee (if supervised by someone who is at least 18), janitorial assistant or office cleaner, coach for a recreational club or association, tutor, newspaper or flyer delivery person, or another occupation approved by the Director</li> <li>Employment must not be injurious to the life, health, education or welfare of the adolescent</li> <li>No work during school hours, no more than 2 hours on a school day, 8 hours on a non-school day (unless varied by a permit)</li> <li>No work between 9:00pm to 6:00am</li> </ul><br><b>15, 16, and 17 (Young Persons)</b> <ul style="list-style-type: none"> <li>Cannot work between 12:01am and 6:00am without parent or guardian consent and supervision of a person who is at least 18 years old</li> <li>Cannot work between 12:01am and 6:00am at a premise selling food or beverages, or other commodities, goods, wares or merchandise; a premise selling gas or similar products; or a hotel, motel or other place offering overnight accommodations               <ul style="list-style-type: none"> <li>Young Persons cannot work on these premises between 9:00pm and 12:01am unless there are supervised by a person who is at least 18 years old</li> </ul> </li> </ul> | <b>Industry Exemptions</b> <ul style="list-style-type: none"> <li>Self-Employed Contractors</li> <li>Volunteers</li> <li>Farming or ranching</li> <li>Artistic Endeavors</li> </ul><br><b>Minimum Wage</b> <ul style="list-style-type: none"> <li>\$13 for the first 28 hours or during a school break               <ul style="list-style-type: none"> <li>Only applies to <u>students</u> under 18</li> </ul> </li> </ul><br><b>Exemptions to Minimum Wage</b> <ul style="list-style-type: none"> <li>Students engaged in a formal course of training approved by the Director, an off-campus education program under the Education Act, or a work experience program approved by the Minister of Advanced Education</li> <li>Extras in film or video production</li> <li>Counsellors at charitable or non-profit educational or recreational camps for children or handicapped individuals or for religious purposes</li> </ul> |



# Saskatchewan

| Key Legislation  | Summary  | Exemptions/Considerations   |
|--|--|---|
| <p><b>The Saskatchewan Employment Act</b></p> <ul style="list-style-type: none"> <li>Part I and II</li> </ul> <p><b>Occupational Health and Safety Regulations</b></p> <ul style="list-style-type: none"> <li>Sections 3-3(1) and (2)</li> </ul> <p><b>Conditions of Employment Regulations</b></p> <ul style="list-style-type: none"> <li>Sections 9.1 – 9.5</li> </ul> | <p><b>14 – minimum age of employment</b></p> <p><b>14 and 15 (Youth)</b></p> <ul style="list-style-type: none"> <li>Requires permission from a parent or guardian</li> <li>Must complete the Young Workers Readiness Certificate Course</li> <li>Cannot work more than 16 hours in a school week, no work after 10:00pm on a day before school or before the start of any school day</li> <li>Can work standard employment hours during school breaks and vacations</li> </ul> <p><b>Anyone under 16 (Young Person)</b></p> <ul style="list-style-type: none"> <li>Parents can apply to the Director for written authorization exempting the young person from restrictions (conditions may be imposed)</li> <li>No work on a construction site, in a confined space, in forestry or logging operations, on a drilling or servicing rig, or in power line construction or maintenance industries</li> </ul> <p><b>Anyone under 18</b></p> <ul style="list-style-type: none"> <li>No work in underground mining or in an open pit at a mine, as a radiation worker, in an asbestos process or silica process or where an atmosphere supplying respirator would need to be used</li> </ul> | <p><b>Employer obligations</b></p> <ul style="list-style-type: none"> <li>Employers must keep a parental consent form and the YWRCC certificate of completion on file for each employee under 16</li> </ul> |

# Manitoba

| Key Legislation   | Summary   | Exemptions/Considerations  |
|---|---|--|
| <b>Employment Standards Code</b> <ul style="list-style-type: none"> <li>Sections 83 – 84.3</li> </ul> <b>Employment Standards Regulation</b> <ul style="list-style-type: none"> <li>Sections 25 and 26.1</li> </ul> <b>Worker Recruitment and Protection Act</b><br><b>Worker Recruitment and Protection Regulation</b> | <b>Under 13</b> <ul style="list-style-type: none"> <li>Cannot be employed</li> <li>Obligation on parents to ensure children under 13 are not employed</li> </ul> <b>13 to 15</b> <ul style="list-style-type: none"> <li>Requires permission from a parent or guardian</li> <li>Must complete the Young Workers Readiness Certificate Course</li> <li>Cannot work between the hours of 11:00pm and 6:00am</li> <li>No more than 20 hours during a school week</li> <li>All work requires direct supervision by an adult present at the same workplace</li> <li>Under 14 – No work involving food preparation</li> <li>Under 16 – No work involving construction sites; industrial or manufacturing production processes; involving scaffolding, swing stages or the use of ladders at heights greater than 1.5 meters; work on drilling or servicing rigs; arboriculture if using dangerous tools or equipment; or involving handling or use of herbicides or pesticides</li> </ul> <b>Under 18</b> <ul style="list-style-type: none"> <li>Cannot work alone between 11:00pm and 6:00am</li> <li>No work in the forestry industry; in a saw or pulp mill; involving underground mines or at the face of open pits or quarries; involving abatement or removal of asbestos; or in enclosed or partially enclosed spaces that are not primarily designed for human occupancy and have restricted access or egress</li> </ul> | <b>Industry Exemptions</b> <ul style="list-style-type: none"> <li>Apprenticeship under the Apprenticeship and Certification Act (must be at least 16)</li> <li>Child performers</li> </ul> <b>Employer obligations</b> <ul style="list-style-type: none"> <li>Employers must keep a parental consent form and the YWRCC certificate of completion on file for each employee under 16</li> </ul> <b>Exemptions to the YWRCC</b> <ul style="list-style-type: none"> <li>Independent contractors or volunteers</li> <li>Family farming</li> <li>School or government approved program (volunteering or work experience programs)</li> </ul> |

# Québec

| Key Legislation   | Summary  | Exemptions/Considerations  |
|---|--|--|
| <p><b>Act Respecting Labour Standards</b></p> <ul style="list-style-type: none"> <li>Sections 84.2 – 84.7</li> </ul> <p><b>Regulation Respecting Labour Standards</b></p> | <p><b>General Rule</b></p> <ul style="list-style-type: none"> <li>Children shall only perform work that is proportionate to their capacity and is not detrimental to their education, health, or physical or moral development</li> </ul> <p><b>Under 14</b></p> <ul style="list-style-type: none"> <li>Generally, no work</li> <li>Can work in certain roles with consent from a parent or guardian in the “Consent to work for a child under 14 years of age” form</li> </ul> <p><b>Under 16 and does not have a Secondary 5 Diploma, or turning 16 during the school year but is required to go to school</b></p> <ul style="list-style-type: none"> <li>No work during school hours</li> <li>No work between 11:00pm and 6:00am</li> <li>No more than 17 hours per week, with a maximum of 10 hours from Monday to Friday</li> </ul> <p><b>Under 18 and not required to go to school</b></p> <ul style="list-style-type: none"> <li>No restrictions</li> </ul> | <p><b>Exemptions from the Age Restrictions</b></p> <ul style="list-style-type: none"> <li>Child Performers in artistic fields</li> <li>Newspaper deliverers</li> <li>Babysitters</li> <li>Tutors or homework assistants</li> <li>Small family business (must be supervised)</li> <li>Non-profit social or community organizations, including camps or recreational groups (must be supervised)</li> <li>Non-profit sport organizations (must be supervised)</li> <li>Light manual tasks in small agricultural enterprises (must be at least 12 years old, and supervised)</li> </ul> <p><b>Exemptions from the Time Restrictions</b></p> <ul style="list-style-type: none"> <li>Artistic creation or performance roles</li> <li>Social or community organizations with lodging, on days when the child is not expected to attend school the next day</li> </ul> <p><b>Exemptions from Minimum Wage</b></p> <ul style="list-style-type: none"> <li>Minimum wage does not apply to students employed in a non-profit organization having social or community purposes, including camps or recreational groups</li> </ul> |



# Ontario

| Key Legislation   | Summary  | Exemptions/Considerations  |
|---|--|--|
| <p><b>Employment Standards Act</b></p> <p><b>Occupational Health and Safety Act</b></p> <p><b>Occupational Health and Safety Regulations</b></p> <ul style="list-style-type: none"> <li>• Regulation 213/91 – Construction Project, Section 16</li> <li>• Regulation 854 – Mines and Mining Plants, Section 8</li> <li>• Regulation 851 – Industrial Establishments, Section 4</li> <li>• Regulation 855 – Oil and Gas, Offshore, Section 4</li> </ul> <p><b>Education Act</b></p> <ul style="list-style-type: none"> <li>• Sections 30(3) and (4)</li> </ul> <p><b>Protecting Child Performers Act</b></p> | <p><b>Under 14</b></p> <ul style="list-style-type: none"> <li>• Generally, no work</li> </ul> <p><b>Under 15</b></p> <ul style="list-style-type: none"> <li>• No work in a factory, manufacturing or assembly plant, repair shop, restaurant kitchen, automotive service garage, produce or meat preparation in grocery stores, shipping and receiving areas in grocery stores, laundries (i.e. at a hospital or hotel), or warehouses</li> </ul> <p><b>Under 16</b></p> <ul style="list-style-type: none"> <li>• No work during school hours</li> <li>• No work on construction sites or logging operations</li> </ul> <p><b>Under 18</b></p> <ul style="list-style-type: none"> <li>• No work offshore, or on or from a rig; in an underground mine or at the working face of a surface mine; or in window cleaning</li> </ul> <p><b>Under 19</b></p> <ul style="list-style-type: none"> <li>• No work as a shaft attendant (where hoist is used on a construction project)</li> </ul> | <p><b>Child Performers (under 18)</b></p> <ul style="list-style-type: none"> <li>• Requires written agreement</li> <li>• No more than 8 hours per day</li> <li>• Must provide time for tutoring if of compulsory school age</li> </ul> <p><b>Minimum Wage</b></p> <ul style="list-style-type: none"> <li>• \$16.60 for the first 28 hours or during a school break <ul style="list-style-type: none"> <li>• Only applies to <u>students</u> under 18</li> </ul> </li> </ul> <p><b>Exemptions to Minimum Wage</b></p> <ul style="list-style-type: none"> <li>• In training for occupations (i.e. engineering, medicine, law)</li> <li>• Work experience program authorized by a school board</li> <li>• Co-operative or work experience programs through college or university</li> <li>• Student instructors or supervisors at a camp for children (unless as a wilderness guide)</li> </ul> |

# Practical considerations

- Seasonal work
- First job
- Mentorship
- Legal forms or waivers

# Young workers – Immigration considerations

## International Students – Working On-Campus

An international post-secondary student can work on-campus if they meet all of the following requirements:

- They are a full-time post-secondary student at a:
  - Public post-secondary school, such as a college, university, trade or technical school, or CEGEP in Quebec
  - Private post-secondary school in Quebec that operates under the same rules as public schools in Quebec
  - Private or public secondary or post-secondary institution in Quebec offering qualifying programs of 900 hours or longer leading to a diploma of vocational studies (DVS) or an attestation of vocational specialization (AVS)
  - Canadian private school that can legally award degrees under provincial law (for example, associate degree, bachelor's degree, master's degree or doctorate), but only if the student is enrolled in a study program leading to a degree authorized by the province (this may not include all study programs offered by the private institution)
- They have a valid study permit or maintained status
- Their valid study permit has printed conditions allowing for on- and off-campus work; and
- They have a valid social insurance number (SIN)

<https://www.canada.ca/en/immigration-refugees-citizenship/services/study-canada/work/work-on-campus.html>



# Young workers – Immigration considerations

## International students – Working off-campus

An international post-secondary student can work off-campus if they meet all of the following requirements:

- They are a full-time student at a designated learning institution (DLI);
- They are enrolled in either of the following:
  - A post-secondary academic, vocational or professional training program **or**
  - A secondary-level vocational training program (Quebec only);
- Their study program:
  - Is at least 6 months long **and**
  - Leads to a degree, diploma or certificate;
- They have started studying;
- They have a valid study permit or maintained status;
- Their valid study permit has printed conditions allowing for on- and off-campus work; and
- They have a social insurance number (SIN)

<https://www.canada.ca/en/immigration-refugees-citizenship/services/study-canada/work/work-off-campus.html>

For a complete list of DLIs: <https://www.canada.ca/en/immigration-refugees-citizenship/services/study-canada/study-permit/prepare/designated-learning-institutions-list.html>

# Young workers – Immigration considerations

## Allowable hours

- International students who meet the requirements can work:
  - Unlimited/full-time hours on-campus
  - Up to 24 hours per week off-campus during regular school terms or semesters
  - Unlimited/full-time hours off-campus during regularly scheduled breaks in the school year

# Young workers – Immigration considerations

## Who cannot work on-campus

- International students cannot work on-campus if **any** of the following apply:
  - They are no longer studying full-time
  - Their study permit has expired
  - They are on authorized leave from their studies
  - They are switching schools and are not currently studying

# Young workers – Immigration considerations

## Who cannot work off-campus

- International students cannot work off-campus if **any** of the following apply:
  - Their study permit says they are not authorized to work off-campus while studying
  - They are enrolled only in an English or French as a second language program
  - They are only taking general interest courses
  - They are only taking courses required to be accepted into a full-time post-secondary program
  - Their situation changes/has changed and they no longer meet all the requirements to work off-campus



# Young workers – Immigration considerations

## Potential work permit options

- **Post-graduation work permit**
  - May be available to graduates of certain eligible Designated Learning Institutions
  - Some new requirements as of November 1, 2024  
(<https://www.canada.ca/en/immigration-refugees-citizenship/services/study-canada/work/after-graduation/eligibility.html>)
- **Co-op work permit**
  - May be available to international students enrolled in program of study at a DLI with a co-op component/requirement
- **International experience class**
  - May be available to certain individuals between 18 and 35 years of age (in some cases between 18 and 30 years of age) to work and travel in Canada
  - Lottery system

# Thank you



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