



BorEHal December 2021 Edition: Mandatory COVID-19 vaccination policies - are they reasonable for YOUR workplace?

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Recently, in *United Food and Commercial Workers Union, Canada, Local 333 and Paragon Protection Ltd.*, Arbitrator Von Veh found a mandatory COVID-19 vaccination policy to be reasonable. However, in another decision, Arbitrator Stout found that a different employer's mandatory vaccination policy was unreasonable. While these arbitrators came to different conclusions, **their decisions** indicate that the reasonableness of a COVID-19 vaccination policy will be highly fact-specific and context-specific to an employer's workplace and circumstances.

In light of these decisions, employers in Northern Ontario will need to assess the circumstances that are unique to their work environment, including: any applicable government directives regarding COVID-19 vaccination, risks associated with the health and safety of their employees, the vulnerability of their clientele, etc.

WHAT'S NEW IN LABOUR AND EMPLOYMENT LAW

Health and Safety

Workplace Safety North (WSN) published **Workplace Mental Health Safety Talk Videos**, new free videos regarding workplace mental health and safety training (approved by the Ministry of Labour), and statistics with respect to workplace health and safety for the Ontario **Mining** and **Forest Products** Sectors in 2020.

Employment Contracts and Policies

Ontario government tables Bill 27

The Ontario government passed **Bill 27**, the *Working for Workers Act, 2021*, that aims to put in place a number of labour-friendly legislative changes.

Bill 27 creates several new legislative rights and obligations, including the implementation of a policy with respect to the right to disconnect for workers (for employers with 25 employees or more), a prohibition of non-compete agreements (except for executives), and a right for delivery workers and truckers to have access to the washrooms of business owners who use their services.

With the passing of Bill 27, employers who use non-competition clauses would be well advised to



revise their employment contract templates. It should be noted that there is no prohibition in the Bill against the continued use of non-solicitation agreements, which generally prevent an employee from soliciting the employer's clients, employees and/or suppliers after their employment with the employer has ended. Such clauses will continue to be permitted in certain circumstances.

INDUSTRY UPDATES

Hospitality and Retail

The Ontario government has introduced **Bill 43**, which will amend, among other things, the *Employment Standards Act, 2000* to increase the minimum wage. If the bill is passed, the minimum wage will increase from \$14.35 to \$15 on January 1, 2022 (subject to a few exceptions) and will be adjusted annually for inflation on October 1 of each year from 2022. Importantly, the bill also eliminated the different minimum wage for employees who serve alcoholic beverages. Under the bill, these employees will be entitled to the general minimum wage.

EVENTS

If you are planning on celebrating the holidays with your employees this year, don't forget to consider **current provincial restrictions** and **your local public health unit's** recommendations regarding indoor gatherings. Happy Holidays!