

New Claims Limit in Alberta Likely to Increase the Number of Wrongful Dismissal Claims

It is likely that the number of wrongful dismissal claims that proceed to court in Alberta is going to rise given the higher amounts a wrongfully dismissed employee can now claim from Alberta's version of Small Claims Court. In particular, on August 1st, 2014, the Alberta Government raised the maximum amount an individual (or corporation) could claim in the Provincial Court of Alberta (similar to Small Claims Court in other jurisdictions) (the "Court") from \$25,000.00 to \$50,000.00.

This increase is bound to have a significant impact in Alberta wrongful dismissal cases. In particular, while it is a very busy court, and it does take some time to have a trial scheduled, the increase to the monetary limit will likely result in more employees taking advantage of filing a claim where they would not have otherwise done so. With the previous limit, employees who believed their claim exceeded \$25,000.00 would not have typically proceeded to the Court since they would be limited, if successful, to an award of \$25,000.00. These employees would instead likely have retained a lawyer to negotiate a severance package and/or proceeded, with a lawyer, to the Court of the Queen's Bench. Now, given the increase, claims that fall within the \$25,000.00 to \$50,000.00 range are more likely to proceed to the Court. There will also be a larger number of self-represented claims since the Court is a much more straightforward and streamlined process compared to other levels of court.

It is also important to note that the judges that preside over the Court are very knowledgeable about employment law matters given many sit as Umpires under the Alberta *Employment Standards Code*. Having a knowledgeable judge can either help or hurt an employer, depending upon whether or not the employer has been reasonable in terms of the treatment of the dismissed employee both during the employment relationship and upon termination. It also means employers will want to be well prepared for these types of matters and shouldn't take the proceedings lightly, especially since more money is potentially on the line.

The impact this increase may have in other jurisdictions remains to be seen. It is quite possible that the increase in Alberta may lead other Provinces to follow suit, especially since these limits have not been raised in other jurisdictions for some time. In particular, the limit in both Ontario and British

Columbia remains at \$25,000.00. And the limits in some other Provinces are even lower, with Saskatchewan having a \$20,000.00 limit and Manitoba having a \$10,000.00.

As an employer it is important to be aware of the avenues available to dismissed employees when developing a termination and/or negotiation strategy. If you have any questions about these changes, termination strategies or other employment law questions, please do not hesitate to contact e2r Solutions*.

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