

Toto, I've a feeling we're not in Kansas anymore... The Human Rights Tribunal of Ontario opens the door to a new world of possible general damages awards

Many employers underestimate the size of the damages award that can be ordered by a human rights tribunal. In recent years, general damages awarded by human rights tribunals (i.e. damages for injury to a person's dignity, feelings, and self-respect) have been creeping up. This is most evident in a recent Human Rights Tribunal of Ontario (the "Tribunal") decision which awarded an Applicant an unprecedented \$150,000 in general damages.

In *OPT v. Presteve Foods Ltd.*, two temporary foreign workers alleged that during the course of their employment, they were subjected to unwanted sexual solicitations and advances by the owner including incidents of sexual harassment, sexual touching, and sexual assault. Vice Chair Mark Hart awarded one Applicant \$50,000 and the other \$150,000. To put this amount in perspective, this award is three times greater than the highest award ordered previously by the Tribunal.

The facts of this case are particularly egregious, arguably making it unlike any other case previously before the Tribunal and which certainly influenced the Tribunal's award. However, this case should be a signal to all employers that large awards of damages can be granted by human rights tribunals – even in cases where the facts are less egregious than those outlined above.

Given this recent trend, it is imperative that now, more than ever, employers carefully navigate the human rights landscape. Please contact e2r® to discuss how to mitigate against a potential human rights claim.