

Everyone is an employee ... for the purpose of human rights legislation!

*This is a two (2) part Alert! regarding the recent Ontario Human Rights Tribunal decision in **Panucci v. Seller's Choice Stockdale Reality Ltd.** which serves as a cautionary tale for employers regarding the far reaching nature of human rights legislation in Canada and the increased damages awards employers may face at human rights tribunals.*

Most employers are unaware that human rights legislation applies to more than the traditional employer-employee relationship. In fact, tribunals and courts have expanded the scope of human rights legislation to ensure the protection of a wide array of "employment" relationships. As a result, people who are not normally characterized as employees, such as independent contractors, volunteers, or temporary agency employees, may be awarded human rights damages nonetheless.

For example, in *Panucci*, a self-employed commissioned salesperson who worked for a real estate brokerage was awarded \$15,000.00 in general damages for the harassing conduct of the principle broker of the agency. The Tribunal found sufficient evidence to conclude that Panucci's application concerned a "matter with respect to employment" because she worked out of the brokerage office and received mentoring from the principle broker.

Provided a person is providing services on the premises of the Company or under the supervision of an employee of the Company, the person (for the purposes of human rights legislation) is considered to be acting in an employment context. Therefore, a Company can be found liable for human rights damages.

If you would like to discuss your potential human rights liability, please contact e2r to speak with an Advisor. In the meantime, keep an eye out for part 2, coming soon to an email inbox near you!