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# e2r Alert!

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## Case Law Update: Alberta

Welcome to the club Alberta! In a recent court decision, Alberta joined Ontario with severance awards over the previously viewed upper limit of twenty-four (24) months.

### **Lischuk v K-Jay Electric Ltd., 2025 ABKB 460**

#### The details:

- Glen Lischuk ("Lischuk") was 58 years old and had worked for K-Jay Electric Ltd. (the "Company") for 34 years at the time of his termination;
- Lischuk had spent the majority of his working life with the Company and had been promoted to the position of General Manager;
- In 2013, the Company terminated Lischuk without cause, noting that his management style was a factor; and
- At that time Lischuk was a shareholder of the Company, with a 20% equity stake.
- Lischuk filed a wrongful dismissal claim against the Company.

#### The decision:

- The court awarded damages to Lischuk in the amount of \$1,522,841.33, consisting of base salary, bonuses (Christmas and annual), share dividends, benefits, and vacation pay. This represented entitlements for a period of twenty-six (26) months.
- Despite both sides agreeing that Lischuk did not seek alternative employment, the courts did not reduce the award for failure to mitigate, citing that the Company had failed to provide evidence that reasonable effort would have likely resulted in Lischuk securing alternative employment.
- Claims as they related to the increase in Company share values were dismissed.

Also noteworthy is that this decision relied on the concept of "exceptional circumstances": *"Exceptional circumstances" usually arise where an individual begins working for a company as a young adult and is terminated near potential retirement age, after becoming a key or highly specialized employee. The employee, upon termination, is in a situation where their prospects of obtaining similar and comparable employment are significantly limited based on factors specific to their singular employment, such that they have effectively been "forced into retirement"*.

This decision highlights that reasonable notice periods can now exceed 24 months in Alberta, where there are “exceptional circumstances”. Ensuring that you have updated employment agreements with enforceable bonus and termination clauses can minimize your exposure to these increasing awards.

If you have any questions about terminations or your employment agreement templates, please do not hesitate to contact ClientCare.