

NOVEMBER 2023 MONTH IN REVIEW

Federal

LAWS & ANNOUNCEMENTS

New Laws

Sep 27: The federal government busted 116 employers for violating Temporary Foreign Workers Program rules from April 1, 2022, to March 31, 2023, dishing out \$1.54 million in administrative monetary penalties to 93 employers. In addition, 7 employers were banned from the Program and 23 received a warning.

New Laws

Sep 18: Newly effective changes to the Canada Express Entry program allow for category-based selection inviting candidates with specific work experience or French language skills to apply for permanent residence. The first round of invitations just went out targeting transport occupations, including experienced truck drivers, pilots and aircraft assembly workers.

Drugs & Alcohol

Nov 3: That's the deadline to participate in [online consultations](#) reviewing the *Tobacco and Vaping Products Act* as part of a wider [proposed plan](#) to cut nationwide consumption of tobacco and vaping products to less than 5% of the population by 2035.

Action Point: Use the [OHSI Substance Abuse Compliance Game Plan](#) to curb drugs and alcohol at your workplace

Workers Comp

Sep 20: The House of Commons tabled private member legislation ([Bill C-357](#)) to

expand workers comp coverage for mental illnesses by establishing the presumption that mental health disorders among federally regulated workers in law enforcement, emergency response, fire protection, search and rescue and other occupations are work-related, regardless of the coverage rules in the province or territory in which they work.

Action Point: Find out about [workers comp coverage](#) of PTSD and mental stress

Environmental

Sep 27: The federal government released a [new strategy](#) for promoting the wider development and use of carbon management technologies. Along with hydrogen and sustainable biotechnology, carbon management technologies will play a key role in enabling Canada to achieve its goal of net-zero carbon emissions by 2050.

Environmental

Oct 4: Newly tabled (and soon to be enacted) [Bill 358](#) amends the *Excise Tax Act* to eliminate the goods and services tax (GST) for carbon pollution pricing.

CASES

Drugs & Alcohol: Procedural Gaffe Undermines Employer's Case for Drug Use Termination

A railroad fired a locomotive engineer for violating the terms of his rehab agreement by testing positive for marijuana. But while the positive test might otherwise have been just cause to terminate, the railroad undermined its case by pulling the trigger right away without having the engineer undergo the medical assessment required by the rehab agreement in the event of a failed drug test. As a result, the federal arbitrator reinstated the engineer provided that he pass the fitness for work test, submit to random drug and alcohol testing for 2 years and meet all conditions set out in a last chance agreement [[Teamsters Canada Rail Conference v Canadian Pacific Kansas City Railway](#), 2023 CanLII 83425 (CA LA), September 13, 2023].

Action Point: Create a legally sound [drugs and alcohol testing policy](#) for your workplace

Termination: OK to Fire Worker for False Attestations about Receiving COVID Vaccine

A letter carrier with 5 years of service got fired after Canada Post discovered that he

falsely attested to having received the COVID-19 vaccine. While acknowledging his wrongdoing, the union claimed that CP ignored the worker's religious views that being vaccinated would interfere with his relationship with God. But the federal arbitrator didn't buy it. Deliberately lying about being vaccinated not only undermined the worker's trustworthiness but also exposed co-workers and others at the workplace to risk of COVID infection. There's a difference between being fired for refusing the vaccine and being fired for lying about having received it. Besides, the evidence showed that the worker, while sincere in his religious beliefs, also based his objections to the vaccine on non-religious opinions, including unfounded conspiracy theories perpetrated "by shadowy groups" [[*Canada Post Corporation v Canadian Union of Postal Workers*](#), 2023 CanLII 84298 (CA LA), September 8, 2023].

Action Point: Implement an effective [COVID-19 hazard assessment policy](#) at your workplace