

Employers Beware! Significant Fines For Breach Of Obligations Relating To Workplace Violence

October 03, 2016

We are now beginning to see reported cases involving charges and subsequent fines laid against employers for failing to provide information, instruction and supervision to protect a worker from workplace violence or the risk of violence. The clear message to employers is that having a workplace violence policy is not sufficient. Where there are possible risks of violence inherent in a job, employers must ensure that staff are provided with appropriate information regarding those risks, proper instruction on how to deal with these potential risks, and proper supervision at all times.

In July this year, for instance, a hospital was fined \$80,000 following a workplace violence incident where staff members were physically assaulted by a patient. The incident involved a registered practical nurse who was performing rounds on the night shift, and was attacked from behind by a patient. The patient had a history of violence and had reportedly not been following the prescribed medication plan. The assaults occurred in the hallway of a unit and continued near the nursing station. A co-worker intervened in the assault and was also injured. Both workers suffered physical and psychological injuries.

The patient was charged by the Toronto Police and convicted for this assault. The Hospital pleaded guilty to failing to develop, establish and put into effect measures and procedures including safe work practices to protect workers in the circumstances on the night shift from workplace violence or the risk.

Similarly, in August, an agency providing children's mental health services and support for children and youth was fined \$125,000 following a workplace violence incident where a staff member was physically assaulted by a youth. The incident involved a youth worker who had recently commenced employment with the agency and was assigned to the detention and custody unit for boys. The incident occurred when the worker was directing a youth to return to his room for the night. The youth became agitated, entered the staff office and repeatedly struck the worker. A co-worker also located in the staff office intervened in the assault and was also injured. Both workers suffered physical and psychological injuries. The agency pleaded guilty to failing to provide information, instruction and supervision to protect a worker from workplace violence or the risk of violence from a resident.

The above cases are important reminders to employers of the requirements under occupational health and safety legislation and the responsibilities for assessing the risks of workplace violence. Employers must:

- assess the risk of workplace violence that may arise from the nature of the workplace, type of work or conditions of work;
- take into account the circumstances of the workplace and circumstances common to similar workplaces; and,
- develop measures and procedures to control identified risks that are likely to expose a worker to injury, and include these measures and procedures in a workplace violence program.

While employers cannot predict and prevent all instances of workplace violence, they can at least minimize the risk of these occurrences and possible fines by taking the appropriate measure and providing proper training and instruction to their staff.

By

[Michelle S. Henry](#)

Expertise

[Labour & Employment](#)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](#)

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2024 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.