

## Update: B.C. Court of Appeal Restores Largest Award for Injury to Dignity

July 04, 2016

In October of last year, our office provided an update on the B.C. Supreme Court's decision to overturn the largest award for injury to dignity under the British Columbia *Human Rights Code* the "Code"). In a very recent decision, the B.C. Court of Appeal considered whether the Supreme Court erred in setting aside that award.

Under the Code, the Human Rights Tribunal is authorized to make various financial awards where there has been discriminatory conduct, including in employment cases. One type of award is for injury to a complainant's "dignity, feelings and self-respect", often referred to as an award for injury to dignity.

The Code does not provide for any cap for an award for injury to dignity. Over the years, the amount of awards made by the Tribunal for injury to dignity has slowly crept upward, but generally remained relatively modest. By 2013, the highest award by the Tribunal for injury to dignity was \$35,000.

In a 2013 decision, *Kelly v University of British Columbia* ("Kelly"), the Tribunal issued a surprising award of \$75,000 for injury to dignity. Kelly involved a UBC student with Attention Deficit Hyperactivity Disorder and a Non-verbal Learning Disorder, who had been terminated from its medical residency program. In more than doubling its highest award, the Tribunal found the facts to be unique and serious, including that it was the complainant's life-long passion to be a doctor, and that as a result of the termination, the complainant suffered deep humiliation and isolation from his family, including from his father, who was a doctor.

UBC sought a review by the B.C. Supreme Court of the Tribunal's decision in Kelly; arguing that the decision ought to be set aside. In 2015, the chambers judge largely upheld the Tribunal's findings, but did set aside the \$75,000 award for injury to dignity. In doing so, the chambers judge concluded that there was no compelling evidence or rationale that would justify the Tribunal more than doubling the highest award. The chambers judge remitted the matter back to the Tribunal to further consider an appropriate amount for injury to dignity.

In a judgment released in June, the B.C. Court of Appeal held that the chambers judge had erred by setting aside the \$75,000 award. The Court of Appeal differentiated an

award for injury to dignity from a quantum appeal in a personal injury case, where the loss caused by the injury is compared against a range established by the case. In the case of injury to dignity awards, the Court of Appeal recognized that there is no cap, and that while previous awards are of some precedential value, the Tribunal should not be prevented from adequately compensating a complainant for their actual injury to dignity. The Tribunal had found in this case that the complainant's injury was unique; the Court of Appeal agreed and held that the chambers judge erred by likening the situation to any other victim of discrimination who lost a job. The Court of Appeal emphasized that the complainant's termination ended his prospect of *any* job as a practicing physician. Accordingly, the Court of Appeal restored the Tribunal's \$75,000 award.

The Court of Appeal's decision provides clear support for the trend of rising human rights damages in B.C. and in Ontario. While any award for injury to dignity must be supported by the evidence, the Court of Appeal has signalled that no upper limit will be imposed on the Tribunal's ability to compensate complainants for their actual injury.

By

[Andrew Nathan](#)

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 800 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](http://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](mailto:unsubscribe@blg.com) or manage your subscription preferences at [blg.com/MyPreferences](http://blg.com/MyPreferences). If you feel you have received this message in error please contact [communications@blg.com](mailto:communications@blg.com). BLG's privacy policy for publications may be found at [blg.com/en/privacy](http://blg.com/en/privacy).

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.