Overtime pay: An employment class action authorized in Madden c. Nordia Inc.

May 23, 2024

On March 18, 2024, Superior Court Justice Lukasz Granosik authorized a class action based on Québec's *Act Respecting Labour Standards* (the Act) following an application regarding an overtime pay calculation.

Grounds for authorization: the decision

In *Madden c. Nordia Inc.* (2024 QCCS 861), the plaintiff alleges that Nordia, a customer service company, failed to pay overtime at the proper rate by basing its calculation on a percentage of the base hourly rate rather than the regular hourly rate, which includes various bonuses.

The plaintiff argues that this constitutes misrepresentation on Nordia's part and that the bonuses should be included in the calculation of overtime pay, even though this is not explicitly stated in the company's employment contracts.

In addition, the plaintiff claims that Nordia is not complying with the Act by failing to calculate public holidays and overtime pay based on anything other than the base salary.

The judge referred to case law to note that not all hourly bonuses should be excluded from the calculation and specified that only those related to inconveniences of performing work should be excluded under Section 55 of the Act. He concluded that this issue will require further examination at trial, as the authorization should be limited to establishing a mere possibility of success on the merits and not to presenting a realistic or reasonable chance of winning.

Key takeaways

While class actions in employment law prove relatively rare in Québec, this decision provides a good example of the collective risk employers face if they fail to fulfill their obligations under the Act or employment contracts, even in non-union contexts.

In this particular case, Judge Granosik's decision is a reminder that employers should clearly define in their employment contracts the distinction between bonuses related to inconveniences suffered in the course of work and those linked to the employee or their role. Only the former are excluded from overtime calculations.

Contact us

Leveraging the expertise of its Class Actions and Labour & Employment Law groups, BLG is dedicated to providing the highest level of service to its clients. Reach out to our key contacts below for assistance regarding class actions or labour and employment law.

By

Justine B. Laurier, Samuel Roy

Expertise

Class Action Defence, 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

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.

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