Update on Wilson v. Atomic Energy of Canada Limited : Supreme Court of Canada Heard Appeal on January 19, 2016

February 01, 2016

As discussed in our bulletin of January 2015, the Federal Court of Appeal released a judgment on January 22, 2015, holding that the Canada Labour Code (Code) permits dismissals on a without cause basis. Before that judgment, there was ongoing jurisprudential controversy over the issue of whether a federally-regulated employer could lawfully dismiss an employee without cause under the Code. Some adjudicators had held that the Code does not permit dismissals without cause while others disagreed.

The Supreme Court of Canada granted leave to appeal in July 2015 and the appeal was heard this month, on January 19, 2016. The highest court is therefore called to decide whether the unjust dismissal provisions of the Code alter common law rule entitling employers to lawfully dismiss employees without cause and if so, whether "unjust dismissal" means dismissal without just cause.

The following organizations intervened in the matter: Federally Regulated Employers — Transportation and Communications (FETCO), Canadian Association of Counsel to Employers (CACE), Canadian Labour Congress (CLC) and Canadian Association for Non-Organized Employees.

Federally-regulated employers will therefore know, in 2016, whether dismissals without cause are permitted under the Code. We will keep you posted.

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