

Publisher's Note

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Field LLP,

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Remedies In Labour, Employment And Human Rights Law

Remedies in Labour, Employment and Human Rights Law is a unique resource which provides a comprehensive analysis of the remedial jurisdiction of adjudicators, tribunals and courts to enforce human rights and employment rights. The authors examine remedies arising from labour arbitration, from wrongful dismissal litigation, and from unjust dismissal cases under the *Canada Labour Code*, following labour relations board hearings and in the human rights context. In each instance the authors discuss the purpose and scope of the available remedial orders as well as the source of the remedial authority, then each type of remedial order is detailed and explored.

This release updates the case law in Chapter 5 (Remedies for Unjust Dismissal Under the Canada Labour Code). As well, Selected Legal Literature and Word and Phrases have been updated..

- **Eemedies for Unjust Dismissal Under the Canada Labour Code – Concurrent Remedies** – At issue in this case was whether the employee's prior complaint to the Canada Industrial Relations Board ousted the

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employee's right to subsequently pursue an unjust dismissal complaint. The Adjudicator in this case was satisfied that Part I and Part III complaints under the Code re substantially similar, and the employee therefore had available to him a system of redress which he elected not to pursue. As such, the adjudicator did not have legal jurisdiction and was barred from hearing the unjust dismissal complaint: *Kufuor-Boakye and WestJet Operations Corp. (Federal Mediation and Conciliation Service), Re*, 2018 CarswellNat 1118 (Can.Adjud. (CLC Part III)).

- **Remedies for Unjust Dismissal Under the Canada Labour Code – Compensation and General Damages – Deductions from Award –** The Adjudicator held that where damages have been awarded for unjust dismissal, a deduction from such compensation for failure to make sufficient mitigation efforts has been declared to only be warranted in those circumstances where the employer is able to satisfy the heavy burden of proving that the former employee's mitigation efforts were substandard in some way: *Smith and I.M.P. Group Ltd., Re*, 2018 CarswellNat 4925 (Can.Adjud. (CLC Part III)), additional reasons 2018 CarswellNat 7104 (Can.Adjud. (CLC Part III)).
- **Remedies for Unjust Dismissal Under the Canada Labour Code – Costs –** The Adjudicator awarded solicitor-client costs on grounds that, pursuant to *Northwestel Mobility*, a party to an adjudication should not be forced to pay money in order to recover what is rightfully owed to them and, further, that solicitor-client costs should always be awarded in situations where the decision to terminate employment was made arbitrarily and without good faith: *Fortin and Roberge Transport Partnership, Re*, 2018 CarswellNat 5118 (Can.Adjud. (CLC Part III)).