

***An Update has
Arrived in Your
Library for:***

**Please circulate this notice to anyone
in your office who may be interested
in this publication.**

Distribution List

	<input type="checkbox"/>

**EMPLOYMENT STANDARDS HANDBOOK,
THIRD EDITION**

Kimberly A. Parry and David A. Ryan

Release No. 64, March 2018

The *Employment Standards Handbook, Third Edition* offers a thorough explanation of the scope of the Ontario *Employment Standards Act, 2000*, a clearer understanding of the policies used by the Employment Practices Branch of the Ministry of Labour in the administration of the Act and reliable updates on this rapidly changing area of law. It includes the full text of the Act and all regulations, a discussion of the various provisions of the Act and a collection of Digests referenced to the applicable portions of the book.

What's New in This Update:

This release features updates to the case law and commentary in Chapter 1 (Definitions), Chapter 3 (Application of the Act), Chapter 5 (Payment and Statement of Wages), Chapter 7 (Hours of Work and Waiting Periods), Chapter 8 (Overtime Provisions), Chapter 15 (Termination and

THOMSON REUTERS CANADA Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

Fax 1-416-298-5082 (Toronto)

Fax 1-877-750-9041 (Toll Free Canada Only)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

Severance of Employment), and Chapter 23 (Reviews by the Board).

Highlights

- **Definitions — Employer-Employee Relationship — Trainees** — In one case, while it was undisputed that the respondent was an employee, the employer alleged to have provided to all employees a copy of what it called a “Disclaimer” which summarized its practices and included the statement “Elite Towing Services does not pay for training period.” The Board found that because the employer employed the respondent during his two-week training period, “Elite had an obligation to pay him, despite what it may have written in its ”Disclaimer“: *9566350 Canada Inc. operating as Elite Towing Services (Re)*, E.S.C. 1258-17-ES (March 16, 2018 – Clarke), 2018 CarswellOnt 4696, 2018 CarswellOnt 4697.
- **Overtime Provisions—Overtime Threshold—Section 22(1)**— Permitting Overtime Work — Where one employee obtained employer permission to use its premises and equipment after “punching out” to hone his skills in an attempt to demonstrate sufficient proficiency to qualify for an increase in pay, the Board found that the employer had neither assigned the work, nor derived any benefit. Accordingly, the employee’s activities were not work to which the Act applied, and therefore not entitled to overtime compensation: *Wang (Xudong) (CIMMASTER INC.) (Re)*, E.S.C. 1480-17-ES (February 5, 2018 – Rogers), 2018 CarswellOnt 2092.
- **Termination and Severance of Employment — Mass Notice — 50 or More Employees— Section 58— When Mass Notice Effective— Section 58 (4)** — The Ontario Superior Court has held that the information required under s. 58(2)(a) must be given to the Director at the time that notice of the mass termination is given to the employees, and not the 8-week minimum if the employees are given more notice than the 8-week minimum: *Wood v. CTS of Canada Co.* (2017), 42 C.C.E.L. (4th) 43, 2017 CarswellOnt 15043, 2017 ONSC 5695 (Ont. S.C.J.).
- **Reviews by the Board — Applications for Review — Section 116— Parties to a Review - Section 116(7)** — In one review of an order to pay and a notice of contravention, both the Director of Employment Standards and the applicant urged the addition of a party on the possibility that it was, in fact, liable for the employee’s termination and vacation pay. In finding it necessary to add the party to fully adjudicate the issues in the application for review, the Board approved of the reasoning in *Abava Ltd.: G.N. Johnston Equipment Co. Ltd. / Equipement G.N. Johnston Ltee o/a Johnston Equipment (Re)*, E.S.C. 1988-17-ES (April 30, 2018 - McGilvery), 2018 CarswellOnt 7132.