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**LABOUR RELATIONS BOARD REMEDIES  
IN CANADA, 2nd ed.**

**Jeffrey Andrew**

**Release No. 11, November 2018**

**What's New in this Update:**

*Labour Relations Board Remedies in Canada*, Second Edition, covers the remedial orders issued by the federal and provincial labour boards and provides an excellent overview of the procedures for dealing with violations of the legislation, the remedies available, as well as comparing similarities and differences between jurisdictions across Canada. It also includes extensive case law to help expedite your research. Topics covered include: the duty of fair representation, the types of remedy available, the termination of bargaining rights, the provisions dealing with unlawful work stoppages, cease and desist orders, reinstatement, remedial certification, and compensation as remedy.

This release features updates to Chapters 1 (Procedure), 2 (Standing), 3

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(Deferral to Other Tribunals), 5 (Rectification), 7 (Cease and Desist), 8 (Declaration), 9 (Compensation), 10 (Reinstatement), 12 (Certification and Termination of Bargaining Rights), 13 (Bargaining Order), 14 (Settlement of Agreement), 23 (Interim Relief), and 25 (Reconsideration).

As well, this release updates the Issues in Focus section.

### **Case Highlights**

- **Procedure - Procedure in General - Expedited Board Hearings** - Oral histories of Aboriginal peoples are admissible to provide their perspective in cases in which it is relevant. This does not give a right to all such evidence in all cases. The Canada board is permitted to decline to hear it when insufficient justification is given to determine its relevance: *Wsanec School Board v. British Columbia*, 2017 FCA 210.
- **Rectification - Scope of Power - Rectification of Collective Agreement** - The Ontario board has accepted that it has jurisdiction to apply the rectification doctrine when arbitrating a construction grievance, but declined to do so when it was established that the parties agreed to contradictory ideas - each clearly reflected in a settlement: *LIUNA, Ontario Provincial District Council v. Hydro One Networks Inc.*, 2018 CarswellOnt 152.
- **Bargaining Order - Specific Bargaining Requirements - Bargaining Process in General** - The British Columbia board ordered an employer to agree to collectively bargain at the board's office with the union on specific days and to provide a full set of bargaining proposals with response to the union's proposals, in advance of the meeting: *Aerocar Service Ltd. and TC, Local Union No. 31*, 2017 CarswellBC 3606.
- **Interim Relief - Specific Interim Orders - Other Specific Orders** - The Ontario board ordered the interim reinstatement of two employees and the employer was further directed to notify the union immediately if it took future disciplinary action against the two employees: *LIUNA, Local 183 v. Brickstone Construction Ltd.*, 2017 CarswellOnt 15083.
- **Reconsideration - Grounds for Reconsideration - Denial of a Fair Hearing** - Failure to consider a party's submissions before rendering a decision can constitute a valid ground for reconsideration: *Brennan v. CUPE, Local 248423*, 2018 CarswellOnt 5067.