

Federally Regulated Employers: Are Your Employment Agreements Still Enforceable?

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Federally regulated employers subject to the *Canada Labour Code* (“CLC”) should be mindful of the Ontario Superior Court of Justice’s recent decision in *Ghazvini et al. v Canadian Imperial Bank of Commerce*, 2025 ONSC 5218.

Prior to *Ghazvini*, Ontario courts had not rigorously applied the principles from *Waksdale v Swegon North America Inc.*, 2020 ONCA 391, to assess the enforceability of termination provisions in employment agreements governed by the CLC. This created uncertainty as to whether the strict contractual interpretation framework established in *Waksdale* extended into the federal employment regime.

In *Waksdale*, the Ontario Court of Appeal confirmed that termination provisions must be read as a whole. If any part of the termination provision contravened minimum employment standards, the entire termination clause would be rendered unenforceable, regardless of whether the offending provision was triggered in the particular case.

While *Waksdale* has had a significant impact on provincially regulated employment agreements governed by the *Employment Standards Act, 2000*, its application to federally regulated employers remained unclear given that the Court had not definitively addressed whether the same criteria applied under the CLC.

In *Ghazvini*, two employees of the Canadian Imperial Bank of Commerce (“CIBC”), terminated without cause, sued CIBC for wrongful dismissal. The plaintiffs argued that the termination provisions in their employment agreements violated the minimum standards under the CLC, thereby entitling them to reasonable notice at common law. In particular, they challenged both the “for cause” and “without cause” provisions. The “without cause” provision was said to be non-compliant because it permitted termination “at any time,” despite the CLC imposing restrictions on when termination may lawfully occur. The “for cause” provision was also questioned on the basis that it set out a list of conduct constituting cause that may not, in all circumstances, meet the legal threshold for just cause under the CLC. As a result, the plaintiffs submitted that the provision could permit termination without notice in situations where the statutory standard was not met, rendering it invalid. CIBC’s position was that the termination provision complied with the CLC and rebutted the common law presumption of reasonable notice.

While the Court undertook an analysis of both the “for cause” and “without cause” provisions, the decision ultimately turned on the “for cause” provision, reproduced below:

By CIBC for Cause – CIBC may terminate your employment at any time without advance notice, or pay in lieu of notice, for Cause. Cause includes, but is not limited to, dishonesty, fraud, breach of trust, failure to perform your duties in a satisfactory manner, a breach of [CIBC’s Code of Conduct], failure to obtain or maintain any required [Training Licenses and Accreditations], failure to complete the pre-employment screening process to the satisfaction of CIBC, providing false, misleading or inaccurate information during the hiring process, a breach of any other term or condition of your employment, and any act or omission recognized as Cause under applicable law. If your employment is terminated for Cause, you will have no entitlement to any notice of termination, payment in lieu of notice of termination, severance or any other damages whatsoever.

Although counsel for CIBC argued that the reference to “cause” in the provision should be interpreted as referring to “just cause” under the CLC, the Court disagreed because the provision did not explicitly state “just cause”. Instead, it included a broad, non-exhaustive list of conduct, some of which may fall short of the legal threshold for just cause under the CLC. As a result, the Court found that this provision failed to comply with the minimum standards under the CLC and therefore violated the CLC because it was ambiguous and defined cause more broadly than what the CLC intended. Like in *Waksdale*, the “without cause” termination provision in the *Ghazvini* agreements were also rendered unenforceable, and the Court determined that the employees were entitled to common law notice.

The decision in *Ghazvini* signals a shift toward consistency in how courts interpret termination provisions across provincially and federally regulated industries. By confirming that the principles articulated in *Waksdale* apply equally under the CLC, employers can no longer assume that employment agreements in federally regulated industries will be afforded a more flexible interpretation. Instead, termination provisions will be examined with the same standard as provincially regulated industries, with any ambiguity likely to render the entire clause unenforceable.

In light of this, federally regulated employers should proactively review and update their employment agreement templates for new hires and consider reviewing current agreements to determine whether existing employees should enter into new agreements to mitigate the risk of unintended exposure to common law notice. A PDF version is available for download [here](#).

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