



Best Employer Decisions of 2019

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Best Decisions

- Lots going on
- Ask your Stewart McKelvey lawyer – happy to talk about wins . . . Don't ask about any losses.
- Two Areas:
 1. Termination Clauses
 2. No Tort of Harassment

Best Decisions – Termination Clauses

- *Ariss v. NORR Limited Architects & Engineers, 2019 ONCA 449*
- *[NORR] will provide notice of termination in writing to the employee in accordance with the Ontario Employment Standards Act. The Employment Standards Act provides one week for every year of service to a maximum of 8 weeks.*
- Also waiver of common law entitlement

Best Decisions – Termination Clauses

- Wording not perfect
- But good enough!
- No entitlement to additional notice
- We write better provisions – talk to your lawyer! (shameless plug)



Best Decisions – No Tort of Harassment

- *Merrified v. Canada (AG)*, 2019 ONCA 205
- Facts:
 - RCMP officer launched claim against employer, the Government of Canada
 - Became strained
 - Run for nomination as Conservative (without following procedure)
 - Went on radio show as “terrorism consultant”
 - Claimed bullying and harassment
 - 40 day trial over 17 months

Best Decisions – No Tort of Harassment

- Lower court: about \$140,000 in damages and **\$825,000** in legal costs!
- Ontario Court of Appeal
 - No way!
 - No new tort of harassment
 - No damages

Best Decisions

- Take away:
 - Scope of any harassment/bullying claim limited, but still possible
 - But still have concerns under Human Rights (must be tied to protected ground – sex, age, disability, etc.)



These materials are intended to provide brief informational summaries only of legal developments and topics of general interest.

These materials should not be relied upon as a substitute for consultation with a lawyer with respect to the reader's specific circumstances. Each legal or regulatory situation is different and requires review of the relevant facts and applicable law.

If you have specific questions related to these materials or their application to you, you are encouraged to consult a member of our Firm to discuss your needs for specific legal advice relating to the particular circumstances of your situation.

Due to the rapidly changing nature of the law, Stewart McKelvey is not responsible for informing you of future legal developments.