



What's New in HR Law

Upcoming Changes to Ontario's Court Procedures: What Employers Need to Know

November 29, 2019

Bottom Line

On January 1, 2020, significant changes to Ontario's Simplified Procedure and Small Claims Court processes will take effect. Specifically, the maximum allowable claim in Small Claims Court will increase from \$25,000 to \$35,000, while the maximum allowable claim under the Simplified Procedure will double from \$100,000 to \$200,000.

In a press release issued November 13, 2019, the Ontario Government stated that the changes would make it "easier for families, businesses and individuals to resolve their legal issues quickly and affordably."

Upcoming Changes to the Simplified Procedure

Rule 76 of the *Rules of Civil Procedure* sets out the requirements for proceeding under the Simplified Procedure. The Simplified Procedure is a streamlined litigation process intended to expedite claims so that they are brought before a court as soon as possible.

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As of January 1, 2020, the monetary limit for proceeding under the Simplified Procedure will be increased from \$100,000 to \$200,000.

The impending changes will also see the time limit for examinations for discovery by any party increased from two to three hours. Trials under the Simplified Procedure will also be limited to five days.

In addition, legal cost recovery by a successful party will be limited to \$50,000, and disbursement recovery will be limited to \$25,000.

Upcoming Changes to Small Claims Court

Like the Simplified Procedure, Small Claims Court is designed to allow for faster and more cost effective resolution of claims with a lower monetary value.

On January 1, 2020 the monetary limit for claims in Small Claims Court will increase from \$25,000 to \$35,000.

Check the Box

The practical impact of these impending changes is that more wrongful dismissal and other employment-related claims will be processed in these forums, with the litigation process unfolding more expeditiously than may otherwise have been the case. Employers may also see an increase in the overall number of claims they are forced to defend after January of next year, as well as a surge in the number of self-represented litigants in employment-related claims.

While these upcoming changes promote access to justice for claimants, they have the potential to make legal processes *more* costly for employers, who are most often in the position of defendant in employment-related proceedings. When coupled with the cost and disbursement recovery limitations under the Simplified Procedure, we anticipate that these changes will not be welcome news for employers.

To mitigate against the risk of costly legal proceedings, employers should consider taking proactive measures to avoid workplace issues before they arise. In particular, employers should consider implementing the following key strategies:

1. Use written **employment contracts** that effectively limit employees' entitlements upon termination. Employment contracts should be reviewed regularly to ensure effectiveness and enforceability – we recommend contract reviews be undertaken annually.
2. Develop and communicate comprehensive **workplace policies** that outline the expectations and responsibilities of all workplace parties.
3. Implement regular **training programs** designed to reduce issues and incidents relating to occupational health and safety, workplace violence and harassment, discrimination and human rights violations, and any other core areas of concern.

4. Seek **legal counsel** before issuing a dismissal or making other significant changes to terms and conditions of employment, particularly in high-risk scenarios.

Need more information?

If you need more information about the upcoming changes to Ontario's court procedures or need assistance navigating the Small Claims Court or Simplified Procedure processes, please contact [Jessica Fay](#) at 416-408-5566 or your regular lawyer at the firm.



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