



What's New in HR Law

Retirement Home Vaccination Policy Requiring Booster Doses Held “Reasonable”

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Bottom Line

In *Extendicare Lynde Creek Retirement Home Residence and United Food & Commercial Workers Canada, Local 175*, Arbitrator Stephen Raymond issued a consent award in which he determined that a retirement home’s vaccination policy was reasonable. The employer’s vaccination policy required that all new hires and current employees be “fully vaccinated,” including receiving all booster doses of the COVID-19 vaccine.

Background Facts

The employer operated a retirement home providing care and other services to frail and vulnerable residents.

In August 2021, the employer announced the implementation of its COVID-19 Immunization Policy. The policy required that, as a condition of employment, all new hires be “fully vaccinated”. Further, the Employer’s existing workforce were required to be “fully vaccinated” effective October 12, 2021.

In order to be “fully vaccinated” as defined by the COVID-19 Immunization Policy, employees had to receive all booster vaccinations that were recommended by Health Canada from time to time and in the

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future. Failure to remain “fully vaccinated” would result in an employee being placed on an unpaid leave of absence. Continuous non-compliance with the COVID-19 Immunization Policy could result in additional corrective action up to and including termination of employment.

Both the Employer and the Union requested a bottom line award regarding the reasonableness and lawfulness of the COVID-19 Immunization Policy.

The Decision

Arbitrator Raymond determined that the COVID-19 Immunization Policy was and continued to be a reasonable workplace rule consistent with the parties’ collective agreement, the *Occupational Health and Safety Act*, the *Retirement Homes Act, 2010* and the related regulations and requirements, and the relevant authorities.

Arbitrator Raymond noted that this conclusion did not change, “even in the context of the Ontario Government and other public health authorities recently reducing or eliminating various vaccination and other COVID-19 related requirements for staff, contractors and visitors in the context of retirement homes, long-term care homes, and more generally other facilities and venues” (at para. 5).

Check the Box

Although *Extencicare Lynde Creek Retirement Home Residence and United Food & Commercial Workers Canada, Local 175* is a consent award, Arbitrator Raymond’s decision may still be helpful in defending the enforceability of workplace vaccination policies. In particular, this case upholds the use of vaccination policies by employers operating long-term care homes or other residences where COVID-19 outbreak could negatively affect the health and safety of a high-risk population. More generally, this case signals that the Government’s reduction or elimination of public health measures may not necessarily undermine the enforceability of a vaccination policy.

Need More Information?

For more information or assistance with vaccination policy enforceability, contact [Caroline DeBruin](#) at 647.797.4441 or your regular lawyer at the firm.



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