



What's New in HR Law

Ontario Employer Convicted of COVID-Related *OHSA* Violations

August 22, 2022 | By [James Jennings](#)

Bottom Line

In a first for Ontario, [an employer has been convicted under the *Occupational Health and Safety Act* \(the "*OHSA*"\) in relation to its response to a COVID-19 outbreak in the workplace.](#) The conviction serves as a reminder of the responsibility for employers to protect workers from COVID-19 transmission.

Employer Convicted on *OHSA* Charges

The employer, Scotlynn Sweetpac Growers Inc., operated a farm in Norfolk County. Seasonal migrant workers were hired to supplement the employer's local workforce and were housed in bunkhouses on the employer's property. In the bunkhouses, between eight and 50 workers would share bedrooms and a communal kitchen.

On May 29, 2020, the local public health unit declared a workplace outbreak at the farm after two or more cases of COVID-19 had been identified within a 14-day period. Over the next two days, testing by the local public health unit revealed that 196 of the 216 agricultural workers onsite had contracted COVID-19. Three of the workers were hospitalized, and another worker died due to complications from the virus.

The Ministry of Labour, Training and Skills Development laid charges against the employer under the *OHSA* for the employer's failure to properly isolate workers during the outbreak. In particular, before the deceased worker was sent to the hospital, he was bedridden with COVID-19 symptoms for several

This article is for the purposes of only general information and does not constitute legal advice or opinion.

days. During that time, he was allowed to remain in the bunkhouse that he shared with other workers rather than being isolated from other individuals.

Recently, the employer pleaded guilty to violating section 66(1) of the *OHS*A. Under this provision, it is an offence for an employer to fail to take the reasonable precaution of isolating COVID-19 symptomatic workers from other workers to protect against the transmission of COVID-19 in the workplace. The employer was fined \$125,000.00 with a 25% victim fine surcharge.

Check the Box

As Ontario deals with yet another wave of the pandemic, this case underscores the importance for employers to proactively reduce the spread of COVID-19 in the workplace. Although many public health guidelines have now been removed, best practice remains for employers and workers to take reasonable precautions to reduce the spread of COVID-19 and to ensure that symptomatic workers do not attend work premises and transmit COVID-19 to others. Employers who neglect to implement adequate safety measures may face prosecution and significant penalties under the *OHS*A.

We will continue to monitor regulatory developments related to the COVID-19 pandemic and provide further updates as they become available.

Need More Information?

For more information about this case or other occupational health and safety matters, please contact [James Jennings](mailto:jjennings@filiation.on.ca) at jjennings@filiation.on.ca or speak to your regular lawyer at the firm.



Toronto
Bay Adelaide Centre
333 Bay Street
Suite 2500, PO Box 44
Toronto, Ontario M5H 2R2
tel: 416.408.3221
fax: 416.408.4814
toronto@filiation.on.ca

London
252 Pall Mall Street, Suite 100
London, Ontario N6A 5P6
tel: 519.433.7270
fax: 519.433.4453
london@filiation.on.ca

Hamilton
1 King Street West
Suite 1201, Box 57030
Hamilton, Ontario L8P 4W9
tel: 905.526.8904
fax: 905.577.0805
hamilton@filiation.on.ca