News

Written Notice of Termination Upheld Where Employees Could Not Work during Notice Period

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Two disabled employees who were unable to work during a termination notice period were recently provided with written notice of termination under the *Employment Standards Act, 2000* ("ESA"), rather than termination pay. At arbitration, they argued that the employer had breached the ESA as well as the Ontario *Human Rights Code* ("Code") by failing to provide termination pay.

Arbitration Randy Levinson disagreed. The arbitrator found that the ESA only required the employer to pay any wages to which the employees were otherwise entitled during the termination period: here, the employees were not working and therefore they were not entitled to any wages under the collective agreement. With respect to the allegation of discrimination under the Code, the arbitrator concluded, on the basis of well-established jurisprudence, that it was a *bona fide* occupational requirement that an employee work in exchange for compensation.

For a more detailed discussion of this case, see our Case in Point blog post, "An Employer's ESA Obligation During Notice Period Where Employees Cannot Work During That Period."