Case In Point

Dismissals Under the *Canada Labour Code*

Date: July 30, 2013

In a recent decision, *Atomic Energy of Canada Limited v. Wilson*, the Federal Court considered the unjust dismissal provision of the *Canada Labour Code* ("*Code*") and concluded that it does not prohibit federally regulated employers from conducting without cause dismissals.

This decision arose out of an unjust dismissal complaint under section 240 of the *Code*. The employee had been dismissed without cause and paid six months severance. The adjudicator hearing the complaint found that, other than dismissals for lack of work or discontinuance of a function, section 240 *only* permitted dismissals for cause.

The Federal Court overturned the adjudicator's decision on judicial review, based in part on a finding that it was inconsistent with the notice and severance provisions of the *Code*. This meant that federally regulated employers did not need to show just cause for all dismissals. At the same time, the Court held that some without cause dismissals could still be challenged under section 240; for example, if the reasons for dismissal were unjust, discriminatory or a reprisal.

Given the conflicting case law at the adjudicator level about the nature of protection created by section 240, this case is an important ruling for employers. As we reported earlier (*Klein v. Royal Canadian Mint*), an employment contract permitting without cause terminations can go a long way to defending these kinds of complaints, provided that the reasons for the termination are justifiable.