



## General Damages in Labour Arbitration Awards

Labour arbitrators are increasingly willing to award significant monetary damages to grievors and unions.

In this “shorts” article, we provide a high-level summary of recent arbitration awards demonstrating this trend.

[\*CIVEO Corp. and UNITE-HERE, where the employers 40, Re\*](#) (BCLRB March 14, 2023) - The British Columbia Labour Relations Board upheld an arbitrator's decision to award \$400,000 in general damages and \$100,000 in punitive damages for defamation related to the Union’s online campaign in which they erroneously claimed that the employer had “broken its promise” to First Nations.

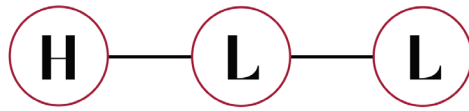
[\*Lyons v. Deputy Head \(Correctional Service of Canada\)\*](#) (Federal Public Sector Labour Relations and Employment Board, November 21, 2022) - The arbitrator awarded \$150,000 in aggravated damages and \$175,000 in punitive damages for wrongful termination. The employer had erroneously concluded, without evidence, that a correctional officer was smuggling drugs and weapons after a video surfaced that showed the officer passing items between cells during a lockdown.

[\*Wintemute and TFI International Inc., Re\*](#) (Canadian Industrial Relations Board, November 10, 2022) - The arbitrator ordered the employer to pay \$240,533.14 in compensatory damages, and \$50,000 in punitive damages for wrongful termination. The employer terminated the complainant for refusing to disclose confidential medical information and attend an independent medical examination to return to work on an accommodated plan.

[\*LIUNA, Local 183 v. CTS \(ASDE\) Inc.\*](#) (Ontario Labour Relations Board, May 29, 2023) - The board found that the Grievor was the target of anti-Black bias, and their termination was tainted by discrimination based on race and colour. Their award was divided into \$10,000.00 for the violation of the Grievor’s right to be free from discrimination, and another \$10,000.00 for the particular effects the discriminatory termination had on them in regard to their dignity and self-respect.

[\*Iron Forming Inc. v Labourers’ International Union Of North America, Local 183\*](#) (Larry Steinberg, May 10, 2023) - The arbitrator ordered the employer to pay \$15,000 in general damages for violating the collective agreement and the *Human Rights Code* after an employee used a racial slur against the Grievor, creating a “poisoned work environment”.

[\*The Wexford Residence Inc. and CUPE, Local 3791 \(Archibald\), Re\*](#) (Randy L. Levinson, January 20, 2023) - The arbitrator ordered the employer to pay \$10,000 for sexual harassment, finding that the employer violated the collective agreement, the



HUNTER-LIBERATORE-LAW

Harassment Policy, and the *Human Rights Code*. The arbitrator further awarded \$5,000 for the employer's failure to properly investigate the Grievor's harassment allegations.

[\*Central Okanagan Public Schools v Canadian Union of Public Employees, Local 2523, 2022 CanLII 91057 \(BC LA\)\*](#) (Marli Rusen, July 19, 2022) - The arbitrator ordered the employer to pay \$7,500 in general damages for violating the Grievor's privacy and discriminating against them on the basis of disability. The employer required the Grievor to provide management and the human resources department with monthly updates from her physicians confirming that she was participating in her treatment plan and was medically fit to work.

[\*Millwright Regional Council of Ontario, UBCJA, Local 1592 v. FM Sylvan Canada Ltd.\*](#) (Ontario Labour Relations Board, August 19, 2022) - The arbitrator awarded \$3,000 in general damages for discriminating against the Grievor on the basis of disability by denying them a work assignment after they had requested an accommodation.

[\*NLTA and Newfoundland and Labrador English School District \(NLTA-068\), Re\*](#) (Sheilagh M. Murphy, Janet Vivian-Walsh, Donald Ash, August 15, 2022) - The board of arbitration ordered \$2,500 in general damages for the Grievor's mental anguish and stress after the employer failed to take adequate steps to address abusive social media posts that were published by a third party about the Grievor.

[\*Toronto District School Board v CUPE Local 4400, 2022 CanLII 60817 \(ON LA\)\*](#)(Gail Misra, July 11, 2022) - The arbitrator ordered the employer to pay \$1,000 in general damages for violating the collective agreement and the *Human Rights Code* after a manager made disparaging comments about the validity of the Grievor's disability to the Grievor's supervisors who were overseeing the Grievor's disability accommodation process.

---

The article in this update provides general information and should not be relied on as legal advice or opinion. This publication is copyrighted by Hunter Liberatore Law LLP and may not be photocopied or reproduced in any form, in whole or in part, without the express permission of Hunter Liberatore Law LLP.