

PUBLICATION

(At least 50) Davids v. Goliath: Group Terminations Under the Canada Labour Code

Shane B. King
Nicholas L. Lo

February 11, 2021

Most non-unionized employees who are terminated from their employment can seek recourse for reasonable notice or severance under some combination of the provincial *Employment Standards Code* and the common law.

Through a unique quirk in Canadian constitutional law, a narrow subset of industries are federally regulated under the *Canada Labour Code*. Generally speaking, employees in these industries have different and often much more expansive rights. These industries include: airlines, railways, banks, First Nations Bands, radio and television broadcasting, telecommunications, uranium mining and atomic energy related businesses, grain elevators, and Federal Crown Corporations.

In the wake of the COVID-19 Pandemic, many of these federally regulated employers have commenced group terminations of 50 or more employees at a time. Terminations of this nature engage the rarely used Group Termination provisions under Division IX of the *Canada Labour Code*. When a Notice of Group Termination is served on the Redundant Employees, as they are referred to under the *Canada Labour Code*, the Redundant Employees are entitled to elect representatives a Joint Planning Committee to negotiate their separation packages and any other methods of minimizing the impact of the Group Termination with their employer. This election should occur within two weeks of the Notice of Group Termination.

This leaves the Redundant Employees, who are often in locations across Canada and have never communicated with one another, at a severe disadvantage relative to the centralized decision-making capability of the employer. The Redundant Employees are basically on a two-week scramble to organize and conduct an election for an *ad hoc* union to advocate for their rights. There is little incentive for the employer to aid the Redundant Employees in this exercise.

As the timelines between the Notice of Group Termination and the formation of the Joint Planning Committee are very short and few employers, employees, and even lawyers are knowledgeable of the Group Termination provisions of the *Canada Labour Code*, it is imperative that the Redundant Employees contact knowledgeable counsel as quickly as possible following the Notice of Group Termination to ensure that they are properly advised of their rights in the course of electing and appointing their representatives to the Joint Planning

Committee and ultimately securing favourable separation packages for the Redundant Employees, who often number in the hundreds.

Shane King and **Nicholas Lo** of McLeod Law LLP's **Employee Rights Group** recently acted for a group of approximately 560 Redundant Employees terminated under a Group Termination and successfully negotiated a separation package well in excess of the employer's original position that the Redundant Employees were only entitled to the minimums under the *Canada Labour Code*.

If you and your coworkers work in any of the industries listed [here](#) and have been terminated as a group, please reach out to either Shane or Nicholas for free consultation so that you and your coworkers are informed of their crucial rights as Redundant Employees.