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POST EMERGENCY LEAVE RECALLS

The State of Emergency in Ontario is scheduled to end on June 30, 2020 meaning, barring an extension, leaves under Regulation 228/20 will come to an end on August 11 and employees will be entitled to reinstatement.

Normally, affected employers must return employees to the same jobs that they previously had. However, these are not normal times and many businesses have been restructured, and workforces reorganized. Previous positions may no longer exist. In these circumstances it is important to know that you can satisfy the reinstatement requirement by reinstating employees to "comparable" positions. In order to be "comparable", a position must have the same wages and benefits, and should also be equally attractive based on: (i) location; (ii) hours of work; (iii) working environment; (iv) job-security and advancement; and (v) prestige and perks.

The right to reinstatement is not absolute. An employee who was on leave can have their employment terminated for any number of reasons, so long as the reason is not the fact that they went on leave. Where an employer has gone through a down-sizing/restructuring of its business there is no obligation to reinstate if the employee would have lost his or her job regardless of having taken leave.

Feel free to get in touch to see how we can help you navigate reinstatement.

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