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### **EVIDENCE AND PROCEDURE IN CANADIAN LABOUR ARBITRATION**

Gorsky

Release No. 4, September 2021

#### **Publisher's Special Release Note 2021**

The pages in this work were reissued in September 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the September 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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Evidence and Procedure in Canadian Labour Arbitration provides thorough coverage of all the procedural and evidentiary issues pertaining to labour arbitration in Canada. It is written to be used by labour and employment law lawyers representing both unions and management, union officers involved in arbitration, and human rights professionals.

This release features updates to Chapters 1 (Introduction), 3 (Timeliness), 4 (Grievance Procedure), 5 (Appointment of the Board), 7 (Preliminary Objections: Status and Finality) and 8 (Pre-Hearing Procedural Issues). Legislatively Defined Terms section has been updated too.

## Highlights

- **Introduction** — *OLYMEL s.e.c./l.p. (Pandemic Pay)*, 2021 CarswellOnt 7272 (Anderson) — Where the grievance alleges that the employer acted in bad faith, it may be sufficient to confer jurisdiction on the arbitrator to hear the merits of the grievance.
- **Timeliness — Continuing and Isolated Grievances** — *York University (Termination of Life Insurance)*, 2021 CarswellOnt 5567 (Gedalof) — Held to be a continuing grievance because the allegation was that the employer had not maintained a life insurance policy for employees over the age of 71.
- **Preliminary Objections: Status and Finality — Procedural Issues: Bifurcation of the Hearing** — *Peterborough Regional Health Centre (COVID-19-Infectious Disease)*, 2021 CarswellOnt 4818, (Wacyk) — The arbitrator bifurcated a hearing about personal protective equipment during the COVID-19 pandemic in order to assist the parties in a timely resolution of a critical element of an urgent dispute. The analysis was followed in *Health Sciences North (PCRA Policy)*, 2021 CarswellOnt 6061 (C. Johnston).
- **Preliminary Objections: Status and Finality — Res Judicata** — *St. Joseph's Care Group (Gammond)*, 2021 CarswellOnt 5236 (C. Johnston) — The arbitrator held that the doctrines of res judicata and issue estoppel applied where the Court had already ruled that it had exclusive jurisdiction over the matter.

## ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages