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CANADIAN HEALTH AND SAFETY LAW

NORMAN A. KEITH

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Canadian Health and Safety Law provides detailed coverage of occupational health and safety law in every jurisdiction in Canada – provincial, federal and territorial. Reviewing health and safety law thematically and including commentary, case law and practical analysis, this title clearly sets out the statutes and regulations required for a solid understanding of your client’s obligations, and each court and tribunal decision helps you determine how to reduce or avoid liability. It includes information on must-know topics like: the internal responsibility system, the requirements for workplace joint health and safety committees and health and safety representatives, the legal defence of due diligence, the authority of government inspectors in the workplace, and alcohol and drugs in the workplace.

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What's New in This Update:

This release adds two articles to the Related Articles section of the text, updates the Words & Phrases and Selected Legal Literature appendices to September 2021, and adds over 100 court, board and tribunal decisions relating to occupational health and safety issues in Canadian jurisdictions from July 2020 to June 2021 to the New Developments section.

Highlights:

RELATED ARTICLES — “Can Employers Require Employees Vaccinate Against COVID-19?” by Rich Appiah and Domenica Moran, and “COVID-19 Vaccination and the Workplace” by Colleen Bauman.

NEW DEVELOPMENTS — In *Teglas v. City of Brantford et al*, the plaintiff was injured when assaulted in a city-owned parking garage where security was provided by a firm contracted by the city. The plaintiff sued the city and security firm in negligence. The court found that the city and security firm had failed to take reasonable care to make stairwells safe or to mitigate a foreseeable risk of potential third-party torts, particularly where both defendants knew loitering was an issue. Even if all proper steps were taken, though, defendants could not have prevented incident where plaintiff was injured. The action was dismissed. The city failed to conduct a threat and risk assessment under the *Occupational Health and Safety Act*, but there was no private tort remedy for breach of that obligation.

WORDS AND PHRASES — AEROSOL-GENERATING MEDICAL PROCEDURE — “... fitted N95s must be worn whenever aerosol-generating medical procedures (“AGMPs”) are performed, are frequent or are probable. AGMPs include, but are not limited to, the following if applicable to [long-term care] homes: (a) Intubation and related procedures (e.g. manual ventilation, open endotracheal suctioning); (b) cardiopulmonary resuscitation during airway management; (c) bronchoscopy; (d) sputum induction; (e) non-invasive ventilation (i.e. BiPAP); (f) open respiratory/airway suctioning; (g) high frequency oscillatory ventilation; (h) tracheostomy care; (i) nebulized therapy/aerosolized medication administration; (j) high flow heated oxygen therapy devices (e.g. ARVO, optiflow); and (k) autopsy.” (*Participating Nursing Homes and ONA (Covid-19 Policy)*).

WORDS AND PHRASES — UNUSUAL OR EMERGENCY CIRCUMSTANCE — “[A] second pre-condition is that the call out to work must be the result of an ”unusual or emergency circumstance ... The word ‘unusual’ has the meaning of not being usual, uncommon, rare (*Merriam-*

Webster Online Dictionary); of being different from what is usual or expected (*Cambridge Dictionary Online*); of being out of the ordinary, uncommon or extraordinary (*The Free Dictionary Online*). ... the early closing of one or more schools during the school year for operational or safety reasons cannot be said to be an 'unusual' circumstance ... Turning to the word 'emergency,' it carries with it the meaning of an unforeseen combination of circumstances or the resulting state that calls for immediate action (*Merriam-Webster Online Dictionary*); of something dangerous or serious that needs fast action in order to avoid harmful results (*Cambridge Dictionary Online*); a serious situation or occurrence that happens unexpectedly and demands immediate action (*The Free Dictionary Online*). An early school closing because of a power or water or heating failure do not fit the definition of 'emergency'...“ (*CUPE, Local 5050 and Cape Breton Victoria Regional Centre for Education, Re*).

