

Commercial Litigation Insights: Landmark Victory for Underpaid Newcomers – Citizenship and Discrimination: *L.N. v Ray Daniel Salon & Spa*

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The landmark decision of *L.N. v. Ray Daniel Salon & Spa*^[1] was heard on October 26, 2023, before the Human Rights Tribunal of Ontario ("HRTO"). The application brought forward serious allegations of sexual assault, sexual harassment, sexual solicitations or advances, discrimination based on citizenship, and reprisal, all in contravention of the Ontario *Human Rights Code* (the "Code").^[2] This decision is the HRTO's second-highest damages award to date, ordering the respondent to pay \$180,000 in damages to the applicant.

The personal respondent was the sole proprietor and directing mind of Ray Daniel Salon & Spa (the "Salon"). The applicant was hired by the respondent shortly after immigrating to Canada. She worked as an esthetician at the Salon and was paid \$5.00 an hour in cash. While employed by the respondent, the applicant faced not only exploitation of her immigration status, but also sexual assaults. Following a series of assaults, the employer threatened the applicant with deportation if she reported the incidents to the police and used her precarious citizenship status against her. The applicant subsequently filed an application with the HRTO. The respondent did not attend the hearing. In the end, the HRTO held that the respondent discriminated against the applicant based solely on the evidence led by the latter.

This decision emerges as a beacon of hope for all newcomers to Canada, and as a cautionary tale to employers. For starters, when served with an Application from the HRTO, employers must promptly seek legal guidance to effectively steer through the dispute resolution process and avoid being noted in default. Moreover, exploitation of newcomers to Canada can be a perilous path. It is imperative that employers abide by the *Code* and all other applicable legislation in its dealings with its employees irrespective of their citizenship status.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

[1] 2024 HRTO 179

[2] R.S.O. 1990, c. H.19, as amended

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