

# Workplace Violence & Harassment Under Bill 168: A 5-Year Review

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By , ,

It has now been just over five years since Bill 168, now known as Part III.0.1 of the *Occupational Health and Safety Act (Ontario)* (“OHSA” or the “Act”), amended the OHSA on June 15, 2010. As Ontario employers are now generally aware, the amendments required employers to establish workplace violence and harassment policies, develop programs to implement those policies and provide employees with information regarding these policies and programs.

The purpose of this paper is to review the arbitral, common law and tribunal jurisprudence that has since emerged interpreting the amendments to the OHSA. The paper begins with a summary of *Kingston (City) v. Canadian Union of Public Employees, Local 109* (Hudson Grievance) [1] which is now widely regarded as the leading arbitral decision considering the Bill 168 amendments. This is followed by a review of the recent Ontario Labour Relations Board (“OLRB” or the “Board”) decision in *Hydro One Inc. v. CUSW* [2]. Two civil court decisions, *Shakur v. Mitchell Plastics* [3] and *Phanlouvang v. Northfield Metal Products (1994) Ltd.* [4] are then considered. This is followed by a detailed summary of OLRB decisions involving applications under Section 50 of the OHSA alleging reprisal conduct on the part of employers.

The paper includes a note on Bill 132 which is the Ontario government’s proposed new legislation dealing with amendments to various statutes with respect to sexual violence, sexual harassment, domestic violence and other related matters.<sup>1</sup> [2011] O.L.A.A. No. 3932 2014 CarswellOnt 10678 (Ont. L.R.B.); 2015 CarswellOnt 3431 (Ont. L.R.B.).<sup>3</sup> 2012 ONSC 10084 2014 ONSC 6585.

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